SENATE—*Saturday, October 8, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D. offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

Mighty God, everlasting Father, the Senate has been through intensive, difficult days. The nearness of election day, the commitment they have to their home State in participating in campaigns, the struggle with unfinished business are debilitating.

Gracious Father in Heaven, grant to the Senators and their staffs a special visitation of Your love and grace. Help them make time for their families and to fulfill their responsibilities in the Senate and beyond the beltway. May Your peace and Your rest renew and strengthen them.

In His name who promises rest for our souls. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read as following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 8, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

CALIFORNIA DESERT PROTECTION ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report accompanying S. 21, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany S. 21, to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The hour prior to the cloture vote will be equally divided and controlled by Senator JOHNSTON and Senator WALLOP, or their designees.

Who yields time?

Mr. JOHNSTON. I yield myself such time as I may consume.

Mr. President, this legislation on California desert protection passed the Senate by a vote of 69–29. Today, we test the fidelity of the Members of the Senate to that vote and to their conviction.

Mr. President, every park in the National Park System is unique. They are called the stars in the crown. Each has its own special appeal. The glacier-carved granite of the high Sierras and Yosemite has its own special place, as do the hemlock and verdant, soft forests of the Shenandoah. And surely, Mr. President, the desert of California occupies a special and unique place, with its splendid isolation, its serene beauty with the desert flowers, the beauty of the sunsets, as shown in those pictures which my colleague, Senator FEINSTEIN, has shown to the committee, the Senate, and the Nation. It surely occupies a special place.

Mr. President, it is clear that the people of California certainly support this legislation. The question is: Is there a valid reason to be against it?

Well, Mr. President, in the committee, as the occupant of the chair well knows, there were some very strong arguments made against making the desert a park. One was that it is being used for off-road vehicles, and that that is a special use that has a special appeal. In the original House bill, off-road vehicles were to be prohibited from using this park. But as the occupant of the chair argued, and as we on the committee accepted, and as Senator FEINSTEIN herself agreed, off-road vehicles are to be allowed to under this legislation so that we can preserve the desert with its unique beauty and still allow off-road vehicles.

One of the second great arguments we had was over hunting. I am from a hunting State, as I guess many of us in this Chamber are. So, as many said, hunting is a special use. Senator FEINSTEIN agreed, and the conference committee agreed, that we would have hunting in the desert as we do now. So hunting is to be allowed under the legislation.

And then, Mr. President, there was the question of private property. Two very strong amendments were adopted dealing with private property, and indeed there has been no resistance to full protection of private property.

So the three great arguments which were the touchstones of opposition to this legislation have been removed completely. There is, I guess, only one remaining argument, and that is that we do not have the resources, we do not have the money to support this national park.

Well, Mr. President, that argument is really a very hollow one. The whole National Park Service is less than one-tenth of 1 percent of the Federal budget. As important as national parks are to the heart of this country, to the way people feel about this country, it is less than one-tenth of 1 percent, and we are told that we do not have the resources to open up what is the greatest desert area in the whole country. Why, Mr. President, we know that is not so.

You cannot have it both ways, Mr. President, because many of those who are saying we cannot support the National Park Service, that we do not have enough money for that, are those same Senators who, out of the same pot of money—that is the Interior appropriations bill—passed just last night, a bill increasing payments in lieu of taxes. The payments-in-lieu-of-taxes bill has a price tag of $180 million a year, which is many, many times more than the cost of this legislation. I happen to think payments in lieu of taxes is a good idea, but we had no trouble and they had no hesitancy in saying: Raid the Park Service, raid that same pot of money for $180 million a year.

So, Mr. President, how hollow that argument is on the lack of resources. If, in fact, the California desert is worth protecting —and I submit that the people of California believe it is—I submit that if the people of this country believe it is worth doing, and I submit that if the Senators in this Chamber have already said, by a vote of 69–29, that it is worth doing, then resources are not a problem.

We spill more money on the way to the Pentagon than we waste in the National Park Service every year. We all know that.

Mr. President, really, ultimately, what this battle is today is a battle of messages. What message are we trying

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

to send? Ultimately, it is a political message. On the one hand, those of us who support this legislation have looked at the desert after rigorous hearings, after hearings in California, hearings here, where we examined the desert and the resources and examined the beauty of it, to determine whether or not it passed muster as a national park. And the overwhelming resounding answer was that, yes, it does.

The opposition to this, Mr. President, is ultimately not about that. The opposition is: Can we profit by gridlock? That really is what this whole question is about; that somehow, by ensnaring this process, by frustrating the progress, by denying this legislation, by depriving the people of this Nation, and California in particular, of this great resource, that somehow that is going to send an attractive message to the American people.

That is what this fight is ultimately about. It is not about whether this park is worthwhile. It is somehow trying to plumb into the mood of the American people and cynically saying the American people are so mad at the Congress, so mad at everything, that maybe if we just frustrate the process and deny this national park, they will elect us and put us in control.

I wonder if that is what the American public really believes. Do they really believe that, frustrated though they are, disappointed though they are at the Congress, mad, as all the polls indicate, at Bill Clinton, disappointed in Government at every level, wanting term limits, wanting constitutional amendments to balance the budget, line-item vetoes, and various other things indicating frustration with the Congress, does that sentiment mean that they also want gridlock? Do they also want to so frustrate the purposes of this Congress to deprive the American people of any progress in their legislative body, that they would prevent a national park of truly wonderful proportions and dimensions and beauty, deny that in order that somehow that would help this election? Is that their mood? I do not believe so, Mr. President.

I think that those who would want to sign on to gridlock, sign on to depriving us of this legislation, will find that they are resonating to the wrong message from the American people. I do not believe that for 1 minute.

I think there is a feeling in the hearts of Americans for their natural resources, particularly their park resources, that is a feeling almost akin to the love of family. The people love this land. They want to preserve this land. They want to set aside those places of special beauty, especially at a time when urban areas are exploding, when development is overtaking our great resources, when we are losing more and more of our rivers, deserts, mountains and beautiful places to development. People I believe in this country fervently say: Let us preserve it. Let us preserve those beautiful places because they are not going to last forever.

Mr. President, in my home State of Louisiana we used to have millions of acres of hardwood timber with bears. In fact, in my wife's hometown, we checked the old records from over a century ago, and one of the biggest exports back in the pre-Civil War days was bear grease. It actually was bear grease. And now all of those forests, which supported the bears, along with the bears, are gone, and there is no way to bring them back.

Now, Mr. President, I do not know how immediate and how strong the urge is to develop these areas of the desert that would be protected. I know those pressures are there.

We tried to reconcile those pressures with the private property protection amendments in this bill. It is a difficult balance. Many newspapers in California criticized Senator FEINSTEIN for going too far toward protecting that private property.

But the bill, nevertheless, will preserve the desert and will resist those development pressures. But I wonder what the verdict of history would be if 50 years from now people looked back on this debate, while these great beautiful desert areas in California are lost and look back and say: "You know, back in 1994, we could have preserved this at a very modest cost and kept it all and would not have these roads and hamburger palaces, and all the rest of it, if they had not gotten mixed up with politics and if the Republicans had not misread this political message. They thought the American people wanted to gridlock the whole process, deprive the American public of new parks, stop the passage of any legislation, indiscriminately, good or bad. They wanted to gridlock the whole thing, and here is the result: Hamburger palaces where we could have had this beautiful desert."

That is ultimately what this is about, that somehow they can rub that raw nerve of the American people and maybe win the California Senate seat on that account.

Now, how the reasoning goes I do not know. Here the people of California have said over and over again in every public opinion poll I have seen that they want the California desert protected. So somehow the Republicans are saying, "If we deny the people of California what they want, then they will elect our Senator instead of their Senator."

That is somehow the logic. That is what this is about. That is ultimately what it is about, because if it were about the California desert and whether it qualifies as one of the jewels in the crown, there is no question that we would approve this as we did the first time.

I urge my colleagues, Mr. President, to give the same verdict that they did when this matter was up before the Senate before and by a vote of 69 to 29 said this desert deserves protection. This should be a jewel in the crown. Let us vote on this measure today based on its value and not on the political advantage that some may think gridlock adds.

I think gridlock does not add an advantage. I think this desert protection legislation helps the American people.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. CRAIG addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG] is recognized.

TRIBUTE TO THE SENATE CHAPLAIN

Mr. CRAIG. Mr. President, before I respond to the chairman of the Energy and Natural Resources Committee and discuss the merit or lack of merit of S. 21, let me for a moment recognize the Senate Chaplain, Richard Halverson, who I have had the privilege in my short tenure here in the Senate to get to know in a very personal and loving way.

I say that because he has become a very important person in my life and the life of my wife and our family, having just a few years ago this month performed the marriage of our daughter on the patio of her home here in Virginia.

And to you, Dr. Halverson, we have always appreciated your message, your fellowship. And we will miss you.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. JOHNSTON. Mr. President, I associate myself with the remarks of the distinguished Senator from Idaho in wishing Dr. Halverson the best and in telling him how much his ministry has meant not just to this body but to the Nation. We will dearly miss Dr. Halverson.

CALIFORNIA DESERT PROTECTION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. CRAIG. Mr. President, this is an important debate. I would say at the very outset it is not about politics. It is about how we will manage a very large chunk of public land property in the State of California, public land property, if you will, national property. It will also be how we will treat private property owners who live within the bounds of this huge expanse of public land.

I have grown to know the California desert over the last 10 years in a very special way. I come from a mountainous semi-arid State in the northern tier of the West.

I was unfamiliar with the ways of the desert or the beauty of the desert. But while I was serving in the House and on the Interior Committee as this issue began to grow in the mid- to late-eighties, I had the privilege on more than one occasion of going to California, going to Barstow, going to Palm Springs, not to play golf or to recreate, but to listen to those who love the desert, to the environmentalists who want to preserve it beyond where it is currently being preserved and managed today, to the day-to-day person in California who pours out of a Los Angeles basin on the weekends to find their solitude and their recreation in the marvelous expanse of desert land that has become a battleground over what this country ought to do and what the public policy ought to be about the management of it.

It is wrong to assert that this land would become covered with hamburger palaces. And the reason that is a false premise—and I must charge the chairman with that rhetoric—is because it is public land. You do not build a hamburger palace on public land, you build it on private land. We are debating the management of public land, not private land, although this will clearly impact vast numbers of private property owners and hundreds of thousands of acres of private fee-simple land.

More than likely, when you hang the billboard up that says this is an exceptionally unique place and so designated by the Congress in wilderness or in parks, you have, in fact, sent a message around the world that it is so unique that people ought to come see it more than they are currently using it, enjoying it and preserving it and recreating in it.

The risk of a hamburger palace being built, as we know, on the fringes of designated parks is enhanced by the designation of a park, not the absence of a park. Because a hamburger palace is of no value if the human is not present and the human is always present where there is a national park designated because we Americans love our parks and the world at large knows how much we love our parks and that we have historically preserved unique places around our country, and so the world comes to see our parks.

No, really, what this debate is all about is, in part, the message, and on that I agree with my chairman. What is the message that will be sent, or, more importantly, what is the message that will be recorded tomorrow morning in the Los Angeles Times? Will the headline be, "Senate votes to preserve vast acreages of desert land in California in both wilderness and parks"? Will it be that the Senate has failed to do that? That is probably one or the other of the way those headlines will read.

Mr. President, I think you and I know that the headlines will never read, "More than 12,000 landowners affected and private property that they own devalued by the passage of a California desert bill." That will never be in a headline in the Los Angeles Times.

Something else will never be in the headline in the Los Angeles Times. That will be: "California Desert Protection Act requires billions of unfunded costs to be funded in the outyears by a Government that has a $200 billion-plus deficit and a $4.8 trillion debt." Those headlines will not be there. That is part of the debate, and that is a very important part of the debate here today and why some of us, for now nearly a decade, have been involved in the question of should we pass an S. 21-type bill that would lend extraordinary protection to the California desert.

Let me also attempt to debunk some assumptions that are involved in a lot of this debate that if we do not pass this legislation, somehow the California desert falls prey to greater development.

The California desert today is under one of the most comprehensive Federal land management policies of any piece of public property in the United States. Starting in the early 1970's, the Bureau of Land Management, which is the primary manager of the California desert, began a comprehensive land review in which they, through a very astute process so designed by Federal policy, reached out and asked the public of California to become involved in how this land ought to be managed. Out of that grew the California desert plan, a huge plan, involving all of these millions of acres; some put in protected areas to be further legislated as wilderness; some used for what they had always been used for, development and human access, be it mining, be it recreation; some cattle grazing, although very limited.

Certainly at that time and since that time wildlife enthusiasts, along with the California Fish and Game, began to establish better facilities to assure mountain sheep would be protected, and that population has thrived since that time under that management scheme.

So it is false, it is blatantly false, to suggest that somehow these lands are not being protected or managed. They are. They have been, in an extensive way, by the very public policy that this Senate and the Congress as a whole and our Government passed a good long while ago, demanding of the Bureau of Land Management that they go in and provide a comprehensive management plan and develop the review process and get the public input. All that has happened, and the California desert is where we can debate it today, be it for wilderness or for parks. And the reason it is of that quality today is because it has been protected and it has been managed.

But the kind of protection today that we are proposing is phenomenally more restrictive to human beings than any other that we have ever offered. And I really believe that is the tremendous debate that goes on here.

Here are faxes that have poured into my office from a variety of citizens across California who live in the desert, who come to the desert, who recreate on the desert every weekend or take their vacations there. They rock hound, they walk, they ride their four-wheel-drive vehicles because they love the desert. People in a very open and direct way are saying, "You are locking us out."

I will never forget, Mr. President, when we were having a hearing in Palm Desert, I believe, or Palm Springs on the California desert. There were thousands of people there. One man, who was so supportive of this legislation, said, "I have loved the desert all of my life. I have traveled every inch of the desert and I know every part of it. It must be preserved and it must be protected."

I asked that gentleman, whose name I have forgotten—it was a good number of years ago—"I don't dispute your knowledge of the desert nor your love of the desert. How did you see the desert?"

The desert is a very hot, dry environment, temperatures pushing up to the 100 degree and beyond mark during the day and down into the 40's and below in the night; typical of the Southwestern deserts of the United States, extreme highs and extreme lows and, therefore, extreme to the human species.

I said, "How do you see the desert?"

Well, he drove all over it in his four-wheel-drive vehicle. That is how he saw it. And that is how he developed his love and that is what he wanted to share with everyone, was his love of, and therefore protection of the love of, the California desert.

And yet what was ironic about that man's testimony is no one else under this legislation would get the same opportunity that that very gentleman was talking about, because the roads he drove on will be blocked. Access by motorized vehicles will be extremely limited. You do not drive a motorized vehicle across the country in a park. You stay on the roads. In a wilderness area, they are prohibited altogether.

And so I said to this man, "How can you, an advocate of desert wilderness and desert parks, want to preserve this in a way that you will grant to the other citizens of our country the same privilege you had when, in fact, you are denying them?"

Well, he stuttered a bit and did not say much more and got off the witness stand, and I have not seen him since.

My point, I think, is well made, though. More importantly, his point was missed, that you really are denying future generations unique opportunities to see and love the desert, as many do, and to use it, as many have,

under the current management plan and the protection that the BLM has offered this marvelous, marvelous piece of property that is now being talked about and debated.

Well, what are we talking about? We are talking about probably the largest lockup, preservation of, change of policy on public land of any size we have seen since we placed so much of Alaska in wilderness a good number of years ago. This bill places 6.9 million acres of California land, now under the control of the BLM and the Forest Service and private landowners, into 69 separate wilderness areas under the National Wilderness Preservation System, and three new units of National Park Service. In all, the bill creates 7.5 million acres of wilderness and 5.5 million acres of national park preserve.

What does that mean to somebody who might be listening today? What does that mean in the context of an eastern lifestyle when those of us of the West understand millions and millions of acres?

Well, it means the States of Connecticut, Rhode Island, and Delaware and a few pieces of New York all thrown in together. It is one big chunk of land, is what it is.

And it is not just desert and no one just does not live there. It is a lot of people and a lot of property and a lot of diverse interests.

To create the 5.5 million acres of new national parks and preserves, the bill transfers BLM land to the Death Valley and Joshua Tree national monuments and elevates them to the status of parks.

What did I just say? Death Valley and Joshua Tree national monuments.

National monument? Oh, yes, we have already gone in there years ago and designated lands to be protected, unique lands, like Joshua Tree. I have been there, and it is beautiful. I have been to the phenomenal Death Valley. It is beautiful and it is protected and no one can desecrate it and no one has. Then why, today, the rush to judgment? You heard the chairman of the committee talking about the need to protect. Yet, I am telling you, Mr. President, the law currently protects. Laws passed by this Congress have offered that kind of protection. The conferees added 238,450 acres to the Senate bill, and 1.1 million to the proposed Mojave National Park—in other words another extremely large expansion.

The simple designation of large blocks of public land, I think, in the desert, dilutes the importance of our national wilderness preservation system. It degrades, for study recommendations, necessarily designated areas that many of us have been to and many of us will argue do not deserve wilderness status.

I think we know what the 1964 act was all about. It was to preserve lands that were untrammeled or relatively untouched by man. But in the euphoria of using the law, over the last decades we have locked up huge tracts of land. Unlike what the chairman suggested, that we had not been preserving lands, we put more lands in parks and wilderness areas in the last decade than ever in the history of our country. Millions upon millions of acres have been preserved. Yet the Federal Government, in this instance, talks about lands that have roads, that have been actively used by man, that is in the visual sight of mining properties.

I fought hard to convince the Senator from California not to condemn private properties, and in all fairness, she did not in many instances. I began to discuss with her the plight of the ranchers—she never having been one, I having been one—trying to tell her what happens when you change the public policies as she is proposing to do, and how you can literally drive the ranchers out of business by the devaluation of their properties because you have locked them in a state where the Government promises but the Government never delivers. And in some instances, the Senator from California, in all fairness, began to address that issue.

I have read the GAO reports and the BLM's response to these reports. I have talked to you and to others about multiple use management, and the importance of all that the California desert is, not just to California, but to the Nation—that there are areas in the desert that deserve wilderness status. I do not deny that. In fact, I support that. There are some areas in the desert that would deserve expansion for the purpose of making them a national park, and I have supported that. But so have many others from California who, today, oppose this bill. And the reason why although they would support some, they cannot support this, is because this is so overreaching, so grabbing, so locking up, so antihuman, to say to the people who have used the desert for decades and decades, if not generations: We are going to dramatically change your access and in many instances deny you the access and the opportunity you once had.

The authors of the legislation ignore the management and the conservation fact that I have tried to argue here in the first few minutes this morning, of the protection that was set in motion with the creation of the California Desert Conservation Area in 1976. That is the BLM management package I was talking about.

The Senator from California implies that without the passage of S. 21 there is no desert management or protection. Truly, this is a false premise. A responsible desert bill would carry out and implement the conservation legacy, a legacy that this Senate should be proud of because it was the public policy passed by this Senate that produced that conservation area that has created the legacy that recognized in the mid-1970's the importance of the California desert.

But it also recognized something else. It recognized that the California desert was one of the last great treasure houses of America, of the Northern Hemisphere. You say, "Senator CRAIG, what do you mean, treasure house?" I mean minerals. I mean that desert today still represents one of the greatest explored and unexplored mineral reserves of this Nation.

Have we lost sight of the fact that we are an industrial Nation, that we live off our natural resources, our metals and our materials, and our minerals? Senator WALLOP from Wyoming yesterday talked about the rare earths. What are those? Those are the minerals and metals that are developed for the use in this Nation's reach toward superconductivity.

What is superconductivity? The Senator from Louisiana and the Senator from Idaho and the Senator from Colorado are starting to ride on a train that takes us from this building to our offices. That is part of superconductivity, the maglev—magnetic, electrically driven process of transportation. It is known by our geologists that one of the greatest, if not, maybe, the only reserve of this kind of resources is in the California desert. We are whisperingly quiet in our desire to lock it up and to deny this country that opportunity?

A responsible desert bill would carry out and implement the conservation legacy that I have mentioned, of management versus protection and development. Unfortunately for California, all of this balance is ignored in favor of a very narrow single interest, dominated only by a protectionist principle.

What we are doing today is taking this vast acreage of land off the map. We are putting it in a museum and, for any of us who have ever visited a museum, you walk quietly in hushed ways. You do not go there to recreate. You do not go there to vacation. You go there to look at the past. But I know Californians, and a lot of them. I know how they love their desert and they want to use their desert for their future—not to destroy but to play in, to recreate and enjoy, and take their children, as that one man who did not really understand that to lock it up meant you denied him the access. Because, as I said you do not just walk around in 110-degree temperatures. You drive around in them, but you do not go out and camp in them very easily. Yet, that is what this bill is saying.

Rather than preparing the comprehensive bill that would contain all of the facets of management and conservation, only the wilderness management portion of the desert plan, and therefore the parks, got consumed up in all of this. And it is, I believe, a tremendously unjust way to treat a phenomenally valuable resource.

Mr. President, there is a good deal more I could say about this issue, and I say that because I have learned to enjoy the California desert. In fact, it is reasonable to say I have learned to love it. I have been there numerous times now. I am very proud of the Bureau of Land Management and the way they have managed the desert and responded to the public needs of this country and to the resource needs of this country.

So it is not that I do this out of ignorance, it is not that I do this for political reasons, I do this because of my commitment to a responsible and managed, balanced approach toward dealing with our public lands and their phenomenal resources.

The California desert is one of those many resources, and I do not take lightly locking up land that is approximately four times the size of Yellowstone National Park without due consideration. I do not take lightly locking up and turning away people from acreage the size of Vermont, Rhode Island, and Delaware all combined. And I do not take lightly the idea that I would be turning this loose to developers if I denied California S. 21, because that is false. And for any Senator to come to the floor and to say that means they have not studied the conservation plan. They have not looked at how the BLM has managed this land on behalf of the citizens of California and the country.

So we are talking about a very large piece of not just California but the Nation, a very large chunk of resource and critical habitat and roadless area and beauty unique and beyond compare for the deserts of our country.

I hope today that the Senate will defeat this proposition because the desert today is protected and that if we want to add wilderness to the wilderness preservation system, that we will come back in a much more modest and reasonable way. Because as I said, there are lands that deserve wilderness treatment there. I hope that if we want to add to our parks that we would first listen to the clarion call of the Senator from Wyoming who, for the last many years, has said we keep adding land but we put no money with it, and, therefore, we only dilute the very parks we have.

We have included in my State of Idaho a beautiful area called City of Rocks, now one of the No. 1 rock climbing areas in the world. Thousands of people come annually. But as we have treated it and as we have said it is becoming a park unit, we are mistreating it because this year I tried to get $600,000 to protect it and to manage it and to build parking areas and treat the roads, and I did not get the money. They said, "Larry, come back another year."

Can I say to the people of the world who are now coming to climb the rocks of the City of Rocks in Idaho, "Come back another year, we can't handle you, we can't manage you, we don't want you there degrading the value of the resource because we are not willing to put the dollars and cents involved in"? That is really at issue here.

So what the Senator from Wyoming said on the floor yesterday—and I am sure he will repeat today in the closing minutes—and what he has said for so long but what somehow gets denied by this Senate is that in our rush to add lands, we forget one thing: To finance them, to provide the management necessary to preserve the resource that we so politically and articulately suggest we are preserving.

I retain the remainder of the time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. JOHNSTON. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Louisiana has 15 minutes 41 seconds; the Senator from Wyoming has 3 minutes 41 seconds.

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, it is clear that there is broad agreement on one issue between the distinguished Senator who just spoke, the Senator from Idaho, and myself. That is that this resource in the desert is a matter of great beauty and great value. It is a great resource that ought to be preserved. The Senator from Idaho said it, I think, better than I when he described the beauty of this resource.

It is clear that a national park status will protect this resource. There is no question about that. It is very much in question whether a Bureau of Land Management status, with respect to the public land, would protect it from mining, from roads, from ingress and egress and the very fragile values of a desert. It is very much in question whether that would be protected by BLM, or, indeed, whether the BLM land would, as so often is the case, be exchanged for other land around the country for the purpose of development. It happens all the time with BLM land. There are private inholdings of tens of thousands of acres contained within the desert that would be eligible for development.

So, Mr. President, there is no question that national park status would be the better protection for what is, we agree, a great resource for the United States and for California.

When this matter was up before and passed our bill by a vote of 69 to 29, with 13 or 14 Republicans, it was well agreed by a margin of 2 to 1 in this body—greater than 2 to 1—that national park status would be the best protective status for this land.

As the other party is having their caucus, what do you think is being discussed, Mr. President? Do you think the issue there is whether or not national park status would best protect this land? Whether or not we have the resources to afford national park status, a Congress that just yesterday burdened this same account with $180 million a year for payment in lieu of taxes, do you think that is what is being discussed? Do you think that is the appeal that is being made to those Republicans who voted for this park when it was up before?

No, Mr. President, it is not. It is, and I have no listening device there, but I can confidently predict that the discussion there is raw politics. Something to the effect that the American people are frustrated. We help our candidate by trying to capitalize on that frustration, by saying, no, by saying invoke gridlock, do not let the American people, do not let the California people have what they want, which is park status, which the Senate wanted by 69 to 29, that somehow we get political advantage by stopping this legislation.

That is perfectly clear, Mr. President. Can you not hear it now, if you had a wire into that room? Can you not hear those statements being made? It is not about whether we have the resources to afford this—$180 million yesterday a year for payment in lieu of taxes? Good purpose—sure it is—but I mean, does it resonate with any credibility that we cannot afford this legislation? Not at all, Mr. President.

Or is there anyone who would seriously argue that BLM status better protects the desert? No. They are trying to take the frustration of the American public and capitalize on it for political purposes.

I do not believe that is what the American people are trying to tell us. That is not their frustration. They are not saying we have too many parks, or that we ought not to develop our parks. They are not saying that we ought to have less protection, fewer places to go, fewer places of beauty and refuge in this country. That is not what they are telling us, Mr. President, and I do not believe that they will reward those who want to frustrate movements to set aside great places in this country for national parks for all posterity.

Mr. President, I see the distinguished Senator from California, and I ask if she needs some time.

Mrs. FEINSTEIN. I thank the Senator.

Mr. JOHNSTON. I yield to the Senator from California such time as remains.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, once again, I would like to state the merits of this bill. This is not a bill that has a bare majority. This is a bill that has passed both Houses of this

Congress with a major majority. This is a bill that has survived in this House by 73 votes on a cloture motion. This is a bill that is bipartisan and had 16 Republicans supporting it when it was passed.

This is a bill on which I have worked with both sides of the aisle, and more than 19 amendments from the opposition party have been incorporated in this bill. This is a bill in which the major point of contention by the opponents was remedied by acceptance of the House language to designate the east Mojave a preserve and permit hunting. This is a bill which, if it is defeated on this vote, will be defeated by just a few Members of this body. I do not think that is what the constitutional fathers intended when the rules were set up for the functioning of this body.

In California, there are 25 million acres of desert, believe it or not—25 million. This bill would protect about 6.3 million of those acres of California desert, and it would protect some of the most fragile areas of that desert.

As you know, Mr. President, because you are involved in the outdoors—you appreciate the outdoors; you use off-road vehicles; you know the interest that this desert area has for off-road vehicle users—we have worked with that community. We have worked with the American Motorcyclist Association, which had a position of opposition and which changed that position. We have excluded roads of concern to them. We have taken out the South Algodones Dunes area. We have maintained lands for recreational off-road vehicles use in places that are appropriate, where it would not destroy some of the finest artifacts, some of the most fragile flora and fauna of the desert.

This is an area which has 90 mountain ranges, cinder cones, extinct volcanoes, the largest remaining Joshua tree forest in the world, desert tortoises, bighorn sheep, wild burros. It is an area where citizens come in and bring water to animals. That is allowed under this bill.

There were Republicans who had concern with certain land exchanges. Those land exchanges are out of this bill. Every active mine is protected in this bill. Every existing job is protected in this bill. The law enforcement language that has been agreed upon is bipartisan. The military language has been agreed upon by the Armed Services Committee.

Private property rights are protected. There is no taking of private property.

Secretary Babbitt, present in the Chamber yesterday, committed to see to it that access roads to private property and utility lines to private property also are protected and are provided as necessary in conjunction with the private property owner.

The National Park Service estimates that this bill will create in the area between 1,000 and 2,000 new jobs—the area will not lose jobs but gain jobs. It will be good for the area and give property owners in the area I think a sense of pride.

Mr. President, 7 years ago this was a very different bill. The bill on which the argument was joined was a stronger environmental bill in the sense that it eliminated grazing. It did not have the language to protect private property, law enforcement, military, mining—all of the things that we have added to the bill.

I think the unfortunate part about this debate is that many of the opponents' views were cemented on a bill that is long gone, that was introduced 7 years ago in this body, that has been amended substantially. I am so proud of this bill because I think it points a way for a very unique protection program that is not repressive, that is not filled with Big Brother, heavy-handed Government, that is sensitive to the people of the area.

This is why 16 boards of supervisors support it. This is why 36 city councils support it. This is why 15 major newspapers support it. This is why 75 percent of the people of the area support it, and 70 percent of the people of the State support it. It is a good bill. I cannot express my frustration and my disbelief that the will of the majority is sublimated by the practices of this body, and I saw it happen, in campaign spending reform, in lobby disclosure reform, in telecommunications, and somehow I do not think this is the way our forefathers intended this body to work.

Mr. President, I am hopeful that we have 60 votes. The opposition has created a field of land mines to run through to get to this point. Some Members have had to leave. Others have left and come back. I want them to know how very grateful I am to those Members.

I wish to point out to them that this is important to the people of California. It has been a 7-year battle. I am hopeful in the vote that will be upcoming in a few moments we will be able to deliver for the enjoyment of our children and our grandchildren protection of the last remaining dinosaur trackway in California, protection of the largest Joshua tree forest, protection of Indian petroglyphs written on walls of hills and in slot canyons all through this desert area, and protection of tribal burial grounds.

As I pointed out yesterday, under the present system of management, people come in and chip out these petroglyphs and take them home and put them on the coffee table so that your and my grandchildren will never know the history of this great California Desert. The aim of the bill is to protect this history. The aim is to showcase this history. The aim is to enable the flora and fauna of the area to be available, not trampled over and destroyed, to all of the people, to the more than a million visitors who go to Death Valley, who go to Joshua Tree, who go to the east Mojave for one of the most unique experiences in western America.

Mr. President, this is a western preservation bill. This is a bill of which miners and ranchers and recreationists and all Americans should be proud. It is a bill whose time has come, and the time is today. I hope that vote is here.

I thank you, Mr. President, and I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. WALLOP. Mr. President, what is the time status?

The ACTING PRESIDENT pro tempore. The Senator from Wyoming has 3 minutes 40 seconds, the Senator from Louisiana has 1 minute 22 seconds.

(Mrs. MURRAY assumed the chair.)

Mr. WALLOP. Madam President, I will consume the remainder of the time.

Let me just try to confine this argument to what it is really about. I do not quarrel with the Senator from California that it is political because the Senator from California has made it political, because it is not with the Senator from Wyoming.

This is about degrading the National Park System. This is about degrading the National Park system and making American citizens pay for that degradation in funny kinds of ways that they were not otherwise obligated to.

Let me explain. Every time we add a park, this one twice the size of Yellowstone, without adding any personnel or resources, that is a tax on the resources of every national park in America. It is a reduction in its personnel. It is a reduction in its budget.

The argument can be made, and I make it here today, that this area will receive less protection under this status than it has under the BLM for the simple reason the National Park System cannot take care of what it has and it cannot absorb this new obligation. There will be fewer people protecting it than there are now.

Now, let us talk about another protection. Twelve thousand private property holders will be having their property condemned by this and not be able to be paid for it because we do not have the money to pay for the 20,000-some other property holders who are in America with a backlog of $8 or $9 billion that we have refused to pay. This Congress, and the ones that have preceded it, does nothing but put its political reputation on the line by saying I bring you parks and then they tax the parks and the park system.

It is going downhill, Madam President, and Congress is making it go downhill for a very simple reason, because it likes to take credit for the

park and blame somebody else for what is happening—$500 million to put the roads in Yellowstone Park just back into condition.

Guess what happens in here? Another 500,000 acres of private property goes onto the rolls that the Federal Government must buy, and we have a 37-year backlog today. Who will be benefited? The big landholders. Who will be punished? The small landholders and property holders—$7 billion worth of property. This bill cost, for one campaign, $7 billion out of the hides of the taxpayers all over America.

This is not a California issue. The Senator from California said that there is all of this great support. All five Members of Congress in whose districts these lands lie oppose it. And all five Members of Congress in whose lands these districts lie were not consulted by the Senators from California as this went through.

Sixty-eight percent of the people who know about those areas do not approve of this specific piece of legislation. Ask them if they approve of protecting the desert. By all means they do. But do they think this will? By all means they do not. What they think this will do is exactly what it will do—is camp on their backs, reduce their access, reduce the protection of the desert, and take their private property.

The Park Service is not a multiuse agency, and it never has been, and cannot succeed as that.

Madam President, this is an antienvironmental bill, and it is an anti-U.S. Park Service, anti-National Park Service, and anti-National Park System bill.

Mr. JOHNSTON. Madam President, I ask my colleagues this morning to vote on this measure, first, based on whether they think this resource is worth protecting as a national park. The answer to that question is a resounding yes.

Second, Madam President, I ask for them to vote on this question based on what they think the American people want. Madam President, there is no question that the American people, in my judgment, are committed to preserving these resources.

Third, I ask them to take into consideration what the people of California want. But most of all, Madam President, I ask for Senators today to vote this matter based on their consciences. What does that inner light of conscience tell our Senators? If they will follow their dictate of conscience and do what is right, we will again pass this legislation, which we passed before by 69 to 29.

I say this is a time for courage and for conscience and to do what is right.

I yield the remainder of my time.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 21, the California Desert Protection Act:

Barbara Boxer, Byron L. Dorgan, Paul Wellstone, Pat Leahy, George Mitchell, Paul Simon, Patty Murray, Tom Harkin, Richard Bryan, Barbara Mikulski, Jeff Bingaman, Don Riegle, Harris Wofford, John F. Kerry, Claiborne Pell, J. Lieberman, Carl Levin, Dianne Feinstein.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call is waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany S. 21, the California Desert Protection Act, shall be brought to a close?

The yeas and nays are automatic under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina [Mr. HOLLINGS] is necessarily absent.

I also announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of attending a funeral.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Montana [Mr. BURNS], the Senator from North Carolina [Mr. HELMS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The yeas and nays resulted—yeas 68, nays 23, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—68

Akaka	Durenberger	Lautenberg
Baucus	Exon	Leahy
Biden	Feingold	Levin
Bingaman	Feinstein	Lieberman
Boren	Ford	Lugar
Boxer	Glenn	Mathews
Breaux	Graham	Metzenbaum
Bryan	Grassley	Mikulski
Bumpers	Gregg	Mitchell
Byrd	Harkin	Moseley-Braun
Campbell	Hatfield	Moynihan
Chafee	Heflin	Murray
Cohen	Inouye	Nunn
Conrad	Jeffords	Pell
Danforth	Johnston	Pryor
Daschle	Kassebaum	Reid
DeConcini	Kennedy	Riegle
Dodd	Kerrey	Robb
Domenici	Kerry	Rockefeller
Dorgan	Kohl	Roth
Sarbanes	Simon	Wellstone
Sasser	Specter	Wofford
Shelby	Warner	

NAYS—23

Bennett	Faircloth	McCain
Brown	Gorton	Nickles
Coats	Gramm	Pressler
Cochran	Hatch	Simpson
Coverdell	Hutchison	Smith
Craig	Kempthorne	Thurmond
D'Amato	Lott	Wallop
Dole	Mack	

NOT VOTING—9

Bond	Helms	Murkowski
Bradley	Hollings	Packwood
Burns	McConnell	Stevens

The PRESIDING OFFICER. On this vote, the yeas are 68, the nays are 23. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

CALIFORNIA DESERT PROTECTION ACT—CONFERENCE REPORT

The Senate proceeded to consider the conference report.

Mr. SIMPSON. Mr. President, I rise to join my colleague, the senior Senator from Wyoming, MALCOLM WALLOP, and many others in this body, in opposition to this bill.

I share my colleagues' strong concerns about the many problems this legislation will create for private property owners, those who enjoy recreation on these lands, and those who derive their livelihoods from these lands.

I would also remind my colleagues that this issue is not a new one to the Congress. Our former colleague, Senator Alan Cranston, had introduced legislation on this issue in both the 101st and 102d Congress.

Throughout those years, he modified his legislation many times. I am informed that many of the changes he adopted to ease the concerns of others are not incorporated in this legislation. That is, indeed, unfortunate.

It is my view, Mr. President, that the cost of this legislation will most adversely affect many people who will likely never see or drive by this proposed wilderness system.

Mr. President, the costs of land acquisition alone for this proposal will "break the bank" for the rest of the country. I will provide just three examples. There are many more that can, and likely will, be discussed on the floor during the remaining hours of this Congress.

I would urge my colleagues to keep a question in mind as we discuss the costs of this legislation: "What will be the source for these funds? Will they come from general revenue, or will they come from some other source, such as the Land and Water Conservation Fund?"

The Land and Water Conservation Fund is funded from taxes assessed from offshore oil and gas production. Perhaps some of my colleagues would like to keep that thought in mind before they cast their votes.

The money must come from somewhere. But in any case, it will ultimately come from our taxpaying constituents.

One portion of the proposed California Desert Wilderness System would be the East Mojave National Scenic Area: known as EMNSA.

The EMNSA would comprise 1.5 million acres; 200,000 acres of that is now in State or private ownership. Those lands will have to be purchased.

Even if the powers of condemnation are used, which could prove to be necessary, the Constitution requires payment of "just compensation."

Even using very conservative estimates, that compensation will be a great deal of money. For example, up to 36,090 acres of private land would be acquired to create up to 20 new wilderness areas. That will be in addition to taking 818,978 acres of Federal land and 39,424 acres of State land out of multiple use.

Just 3 years ago, the Bureau of Land Management estimated the cost of acquiring the private lands in this single proposed wilderness area.

The private lands in this area range from homesites, to presently producing gold mines. Since 1988, the BLM has been managing these lands and has been negotiating for exchanges and acquisitions. They have not been very successful.

It is clear that the price of these lands will be higher than anticipated if full acquisition is to take place without using the power of condemnation.

The most recent estimate available, based on the 1991 report of the BLM, is that the costs of acquiring the 144,000 acres of private land within the proposed East Mojave Park could range from $36 to $57.6 million. If Congress requires these "inholdings" to be acquired, most of the private land will have to be acquired by direct purchase.

The same problem exists for State land acquisitions. Purchase of those lands could add another $13.75 to $22 million in land acquisition for the State lands.

We are already approaching a potential cost—conservatively—of up to $79.6 million for a single portion of the vast undertaking which is the "California Desert Protection Act."

Land costs, as given in the BLM report, do not include the administrative costs associated with acquisition and exchanges. Both the National Park Service and the BLM would bear additional administrative costs in the millions of dollars to perform such duties as: Surveys, appraisals, adjudication, mineral reports, and appraisals, hazardous materials clearances, cultural clearances, and endangered species clearances.

In a 1986 National Park Service analysis of the proposed park units, the Park Service cites full, fee-simple, title acquisition as the principal land protection method. The report concluded that this was the only method of preventing "incompatible" economic uses and development.

"Incompatible uses" is another way of saying "multiple use." Make no mistake about it, this legislation would "lock up" land which has been used for a variety of legitimate and nonharmful purposes ever since this portion of our country was settled.

The entire East Mojave Park—which is already protected as the "East Mojave National Scenic Area"—would be withdrawn from entry under this legislation. Many of the lands in this area are already strongly protected under various classifications.

When Congress protected the East Mojave region, by designating it as a national scenic area in 1988, most of that area was designated as multiple use lands. Some areas, referred to as "class L" were afforded greater protections. Those protections are in effect today and work very well to preserve sensitive natural, scenic, ecological and cultural resources. The remaining multiple use lands provide for lower intensity, and carefully controlled, multiple use activities such as recreation.

The land management plan for this area already works well to protect the resources of this region.

There are currently 41,125 acres withdrawn from mineral development. There are 3,065 areas designated as Public Water Reserves. That designation places strict controls on agricultural use—indeed, it prohibits agricultural and mining development.

The East Mojave is currently protected by a special designation within the California Desert Conservation Area which has its own management plan and protection measures.

It is not necessary or efficient to add additional "layers" of management by making this all a national park.

The BLM has several other special designation areas in this region, including areas of critical environmental concern, research areas, and national natural landmarks. These areas are already "locked up" from any human impacts.

There are many other thorny problems that must be addressed if this legislation is enacted.

And, I would again point out to my colleagues that I am speaking with reference to a single portion of the proposed park: The East Mojave. It is a fraction of the total scope of this legislation. There is much, much more.

There are presently four waste dumps in the proposed East Mojave portion of the park. One of these is managed by the county as a solid waste disposal facility. The remainder are on private lands near three towns. These sites could already contain hazardous waste.

The Federal Government will have to pick up the tab to clean these sites. While some might argue that the Government could leave them alone and do nothing, I would ask, then, what purpose is being served by making a trash dump a national park?

Certainly, these sites will need to be cleaned sometime in the future if this legislation is enacted into law. Undoubtedly that will be at great cost.

Mr. President, there is much more I could say with respect to the proposed East Mojave Park portion of the proposed legislation. However, there is another proposed addition I wish to speak about, and I know that there are others who wish to speak.

So I will conclude my discussion of the East Mojave with this observation: The valuable resources, scenic and ecological, which exist in this area are already protected. The public may enjoy these lands under current designation with no fear of any future development. This legislation is not necessary to protect any resources and will be nothing more than a very expensive Federal land grab for the areas that remain in private or State ownership.

I would now call my colleagues' attention to another portion of this legislation: Proposed additions to the Death Valley National Monument.

Mr. President, designation as a "national monument" is not something to be taken lightly. Strong restrictions on human activity accompany such designation. Our Nation's first national monument was Devils' Tower, in northeastern Wyoming.

I have some degree of knowledge about how such resources are managed and I can assure my colleagues that this is one of the single most restrictive land use designations that the Government can impose. Virtually every imaginable human activity is strictly controlled, regulated, and in most cases, prohibited. A "national monument" is, indeed, protected.

This legislation would add four separate parcels to the already existing Death Valley National Monument. It would then be designated as the Death Valley National Park. That "redesignation," in my view, actually removes some protection under current law.

I do not believe that any of these lands are appropriate for park designation.

The first parcel that would be designated as a national park is the "Saline parcel." This parcel is approximately 910,000 acres. There are significant issues that are yet to be resolved and the sheer size of this parcel raises many tough administrative problems.

Among the many significant issues raised by the proposal to declare these lands as a national park are the following:

Economic impacts on mining and ranching operations.

Administrative costs to the Government associated with boundary locations, surveys, and inholding acquisition costs.

The difficulty of determining park and wilderness boundaries.

One wilderness, the Inyo, would be managed by three different agencies of the Government: The Park Service, BLM, and U.S. Fish and Wildlife Service.

$1.7 million would be spent for survey work alone.

There are air traffic conflicts for military overflights.

The change in management status will have severe impacts on local economies and rural lifestyles.

Disposition of 1,121 mining claims involving hundreds of valid existing rights will be a very expensive undertaking—all paid for by the taxpayer.

Sixty-two active mining plans of operation would have to be terminated.

Two grazing allotments would be taken and 29 range projects would have to be eliminated.

Elimination of the last major herds of wild horses and burrows that are solely on public lands could be required.

Park designation would eliminate hunting, and would severely restrict bighorn sheep and other wildlife management projects.

Park designation would place severe restrictions on future utility development for California cities: Powerline and pipeline approvals would be most difficult to obtain.

Recreational uses would be restricted or eliminated. Activities such as "rochhounding," car camping, hunting, and access to the elderly and disabled would be severely curtailed.

This area is very popular with the general public, Mr. President, and the public enjoys a variety of benign uses. Expanding this into a giant, monolithic, national park would eliminate many of those activities. I do not see how the general public or the resource will be best served by this legislation.

The second parcel that would be included is the 207,000 acre "Owlshead" parcel. Analysis of the wisdom of designating these holdings as a national park have raised the same issues I have just listed.

In addition to those problems, inclusion of this land as a national park would raise troubling law enforcement problems. The BLM agents who currently have jurisdiction are physically located an hour closer than any National Park Service personnel would be.

Nearly 3,000 acres of private land would become inholdings—many of these lands are held under existing mineral patents.

Another 9,300 acres of State land would have to be acquired, either through purchase or exchange.

Existing access routes would be curtailed or eliminated. This area is a popular area for recreation with the public. That would be eliminate or severely curtailed.

The third parcel proposed for acquisition, "Saddle Peak," also raised all of the above issues and concerns. This area contains 3,000 acres and is also heavily used for recreation purposes. Those activities would end or be severely restricted.

The fourth proposed parcel to be designated in this portion of the proposed California Desert National Park is the Greenwater parcel. This includes 258,000 acres of land. Designation of this parcel as national park raises all of the above concerns and even more, Mr. President. Including this land as national park would also require moving an entire town.

The town of Ryan is a mining town. People live and work and worship there. This legislation tells those good people that they simply do not matter. It tells them that their lives and contributions are insignificant when compared to the perceived "need" for still another national park.

This legislation is not just about a park in a single state, Mr. President. This legislation is about people.

Southern California is one of the most densely populated areas of our country. The people who live there need open spaces to which they can go to relax and, yes, to "recreate." We do them no service by placing even more restrictions on use of those public lands than already exist.

But this legislation impacts more than the good people of California. During the continuing debate over Federal land management policy in the West, in particular the rangeland reform proposals, we have heard much about how the "public lands" belong to more than just the residents of a particular State.

That same philosophy should apply to this debate as well, Mr. President.

Designation of national park lands on the scale contemplated in this legislation will certainly impact all of our constituents.

Our constituents may wish to travel to this area. They may wish to stop and enjoy themselves and to share the recreational experiences that currently exist for those who reside there. Sadly, Mr. President, this legislation will make the California desert as nothing more than a "scenic byway." The public may drive through only.

The public may be permitted to stop long enough to take a photograph, but then must leave. The public may stay only in designated campsites or a few designated lodging facilities.

There must be areas of our public lands that are truly open. That is why a Federal policy of differing levels of protection exists.

National park designation does not "open" lands, it closes them. If any one of my colleagues doubts that, I would suggest a brief trip to the nearest national park.

Upon entering, you will likely be given reading material telling you briefly what you may "see," but then telling you the many things you may not "do": Most parks that I am familiar with a long list of restrictions on public activity.

That is not "public" land. That is not "recreation" and that is not "ecosystem management." That is only about building barriers to human access and charging visitation fees.

There are many "costs" associated with this legislation. I do not believe we have seriously considered all of those costs in this debate.

There are the monetary costs. I mentioned those briefly regarding only a single portion of this tremendously broad proposal.

Those costs will be very high indeed and we have still not been provided with a true and accurate estimate for the total Federal expenditures that will result from this legislation.

But there are also a great many costs that cannot be quantified in dollars. There are costs to the people who will lose their lifestyles. There are the costs to the people who use these lands for recreation and relaxation and who will lose that treasured freedom—where will they go next? They will go somewhere, and the added pressure resulting from that "recreation migration" will have its own unique costs on other economies and lifestyles in other areas.

So there are also the costs imposed by this legislation in terms of freedoms lost. People will lose the freedom of movement that they currently enjoy and that will, Mr. President, result in a social cost that no one can adequately describe or quantify.

In closing, Mr. President, the more we consider this sweeping legislation, the more we come to realize that there are a great many problems that have not been considered. If considered, they have been dismissed as "unimportant."

I disagree. I believe it is very important to be very cautious with such legislation. We should err on the side of caution and we should defer to maintaining current, proven, management practices rather than sweeping change when a need for change has not been identified.

I strongly urge my colleagues to vote "nay" on the coming cloture vote. This legislation is too costly and it is just not necessary.

Mr. DOLE. Mr. President, during the last few days Congress has been discussing the conference report filed for the California Desert Protection Act. While we can all agree that there is a need to preserve this natural resource, there are many areas of concern as to the approach for that preservation.

More than 7.5 million acres of desert wilderness and 5.5 million acres of national parks and preserves are created through this legislation. Of primary concern is that no new funding is provided to manage these new park units

or wilderness areas. Until we find a way to better care for the parks we already have, adding new park lands will only stretch our existing limited resources.

Significant land acquisitions required by this legislation will also add to the overall costs. I am concerned that private property rights of individuals affected by these acquisitions are not adequately protected. I continue to support the need for a takings impact assessment before going forward with any administrative or legislative rules.

We also need to address the broader economic impact of this legislation. The potential prohibition of multiple-use activities such as grazing or mining may restrict future activity that provides an important economic base for this region.

As I have mentioned before, traditionally the Senate has given latitude to the Senators from the State in which the land lies. However, I would like to enter for the record a letter from the four Members of the U.S. House of Representatives who represent the area in question and are in opposition to this legislation. Their views in concern for the areas they represent should not be overlooked.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 1994.

Hon. ROBERT DOLE,
Senate Republican Leader,
Washington, DC.

DEAR SENATOR DOLE: As representatives of the California Desert, we would like to convey our strong opposition to the Senate consideration of S. 21, the California Desert Protection Act, and urge you and your colleagues to oppose the motion to invoke cloture.

S. 21 is based on a myth—that the deserts of California are currently unprotected, and open to the ravages of greedy corporations and careless off-roaders who would destroy the desert for pure pleasure or the almighty dollar. This is a useful emotional lever, but it is patently false. The facts are these: in its passage of the landmark Federal Land and Policy Management Act of 1976 (FLPMA), Congress among other things mandated that a plan be prepared for the protection of the California deserts. At the direction of Secretary Cecil Andrus, an Advisory Committee representing the various desert user groups was formed to analyze and evaluate the California Desert Conservation Area for wilderness or nonwilderness designation. After an extensive outreach program which included years of public hearings and over 40,000 public comments, the Advisory Committee proposed that 2.3 million acres in 62 wilderness areas be preserved—far less than the eight million acre land grab we are considering today. Although these recommendations were introduced by the five desert Congressmen as H.R. 2379, our bill was never given a proper hearing by the House Committee on Natural Resources.

The second flaw of S. 21 is the enormous cost to the taxpayers of acquiring and managing the nearly eight million acres of proposed wilderness and park land protected by the bill. Not only does this measure fail to provide the funds necessary to acquire private inholdings, but it also neglects the 26-year, $1.2 billion backlog in land acquisition faced by the National Park Service. Moreover, the Park Service admits an additional 37-year, $5.6 billion backlog in capital construction and maintenance costs. By adding over three million acres to our already beleaguered system, three certainties will result: increases in visitation, decreases in budgets and staff, and accelerated deterioration of our National Parks.

The third, and perhaps the most troubling, shortcoming of S. 21 is the omission of the thoughts and views of desert residents—most of whom are the best and most knowledgeable caretakers of this resource. Since this debate began, we have collectively received thousands of calls and letters from people who fear they will be locked out of the desert they have enjoyed for generations. Under a wilderness designation, areas will be accessible only on foot or on horseback, a daunting challenge considering the extreme heat and ruggedness of the terrain. Only the most physically able will be able to enjoy these expanses, underscoring the lack of foresight exercised by the armchair environmentalists who drafted S. 21.

We had hoped to help Senator Feinstein craft a sound desert bill in this Congress, but our offers of assistance were repeatedly ignored. Aside from a few minor concessions, none of our concerns saw the light of day until the legislation reached the House floor. This treatment and the resulting lack of balance in the compromise bill leaves us with no recourse but to oppose S. 21. It angers us that we have been painted into this corner, and we resent the hardball tactics of Senator Feinstein and a small band of her environmental allies. Without a doubt, the California Desert Protection Act will incur consequences and set unwanted precedents that will affect not only California, but also every other state in the Union. For these reasons, we respectfully request that you oppose the motion to invoke cloture. In a time when the federal government should be reined in, we are facing a dangerous expansion of federal authority under this legislation—at a price taxpayers cannot afford.

We thank you for your time and your consideration, and are available to you individually or as a group should you have any questions.

Sincerely,

JERRY LEWIS M.C.
DUNCAN HUNTER, M.C.
AL MACANDLESS, M.C.
BILL THOMAS, M.C.
HOWARD 'BUCK' MCKEON, M.C.

POSITION ON VOTE

Mr. FAIRCLOTH. Mr. President, if the Senate had conducted a rollcall vote on adoption of the conference report to accompany S. 21, the California Desert Protection Act of 1994, I would have voted in the negative.

VOTE

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to the conference report.

The conference report was agreed to.

Mr. FORD. Madam President, I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, am I correct in my understanding that under the previous order, the Senate will now proceed to the nomination of General Glosson under a 25-minute time agreement?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. I thank my colleagues.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of the nomination of Lt. Gen. Buster C. Glosson, Executive Calendar No. 1280.

The nomination will be stated.

DEPARTMENT OF THE AIR FORCE

The legislative clerk read the nomination of Lt. Gen. Buster C. Glosson for appointment to the grade of lieutenant general on the retired list.

The PRESIDING OFFICER. There will now be 25 minutes of debate on the nomination with 15 minutes under the control of the Senator from Iowa [Mr. GRASSLEY]; 5 minutes under the control of the Senator from Georgia [Mr. NUNN]; and 5 minutes under the control of the Senator from South Carolina [Mr. THURMOND].

Who yields time?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I yield 5 minutes to the Senator from Ohio [Mr. GLENN] from my 15 minutes.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. GLENN. Madam President, I regret very much that I must rise in opposition to the nomination before the Senate to confirm the retirement of Lt. Gen. Buster Glosson in grade at the three-star level. I regret very much that I must oppose this nomination.

There has been a great deal of dispute surrounding General Glosson's nomination. But several facts, in my opinion, are not in dispute: General Glosson contacted three officers designated to serve on the major general selection board with what a joint DOD/Air Force inspector general investigation report concluded was—and I quote their words—"an intent to influence their consideration" of a particular officer's promotion.

Now, that is outside what is supposed to happen in the military with regard to promotion boards. We asked for an outside panel to consider this and the outside panel concluded that General Glosson, while they said he did not lie, he just remembered incorrectly. That is a rather fine line.

Madam President, Secretary Widnall saw fit to issue a letter of admonishment.

The integrity of officer selection boards in the military is near sacred. I do not know whether people realize how closely these boards are watched and how they are looked. Any kind of activity, just as in General Glosson's case, is strictly prohibited and he knew it.

It is very difficult to say that while in the past we have refused promotions on these grounds, at the same time over at the academies, we say, "OK, midshipman, you just happened to be cheating on an exam, an electrical engineering exam, and we can kick you out. You can go back to your home and your family and you are guilty of ethics violations." We say to them, "You're gone, out, kicked out, not even permitted to have a career." And, at the same time, we turn around and say the honor code can be violated at the top levels of the Military Establishment by trying to influence who goes into the top jobs in the military. We can wink at that and say it does not really mean anything. In other words, honor seems to be only for the lower ranks, and that should not be the case.

I do not know whether everybody realizes what the honor code means in the military, but it means that people live up to a code that is important for life and death matters.

And the honor code, Madam President, is not just a "sometimes" thing. It is something that people live by and it is something that the cadets and the midshipmen and the plebes at the academies are imbued with from the very first day that they come in. If they violate that code, we kick them out. We have done that in the last few years.

At the same time, at the very top levels of the Air Force, where, I must say, we have had problems in the past also with interference with promotion boards, we somehow say, "Well, it is OK there because he has had a long career and distinguished career and all that."

I do not quarrel with that. But in the name of honor, to say that we are going to kick kids out of the academy and at the same time, in the name of honor, we are going to recommend promotion for those involved with a more serious violation at top end of the rank scale is wrong and unfair.

I think approving this nomination basically tells the students at the academies, the junior officers, that honor is only for the lower ranks when we reward wrongdoing at the flag officer level with promotions. That is just flat wrong.

Madam President, honor is not something that continues throughout a career. When we go into a noncommissioned officers' promotion board, we do not say, "Well, OK, here is the list I want no matter what the promotion board says." No, that would be wrong. So we know that and we do not try and do that and we would fire anybody that tried to do it.

The committee voted on this saying, "Well, this was an aberration. This was an aberration in an otherwise distinguished career."

I would submit, Madam President, that it may have been an aberration in the lives of the cadets and midshipmen who were kicked out of the academies for cheating on exams, cheating on exams that would have been overlooked at the most colleges and universities. But the people in the academies and military service are held to an exceptionally high code of honor and to violate that code of honor in saying that, when it is violated at the top level, we will somehow dismiss this and say it is no longer important because it is at high level and because there has been a career behind it and at the same time trying to enforce it at the academies is just plain wrong.

Honor is not a sometimes thing. It is not something you choose to pick up and lay down. It is a way of life in the military and people live that way of life because it is important for battle conditions where life and death decisions must be made.

I just cannot see us rewarding wrongdoing at the flag level while we will not let it be permitted at the lower levels. I think that is wrong.

I regret that I have to oppose General Glosson's promotion. He is a fine person, otherwise. We know him over here from his days when he had service over here on the Hill. But that does not excuse what happened.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

Mr. GLENN. Will the Senator yield me 1 more minute?

Mr. GRASSLEY. I yield 1 more minute to the Senator.

Mr. GLENN. Madam President, we have had problems in this area in the past. We had a problem in the promotion to major general in the Marine Corps one time several years ago. We corrected that situation. We had another situation like this in the Navy. We had another in the top levels of the Air Force.

We took this so seriously on the committee that we had DOD convene a special group to go through the whole promotion board process and promulgate new rules and regulations, which we did. This was supposed to cure the situation. Now we find the same thing happening again in the Air Force where we have had particular problems in the past.

I cannot see us going ahead and condoning this. I am sorry to oppose General Glosson, but I think, in the interest of keeping the honor code intact up and down the full length of the military chain, I have no way to oppose that except to oppose General Glosson. I am sorry to have to do that, but I hope we defeat his nomination.

I thank my distinguished colleague from Iowa for yielding me the time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. I yield myself such time as I might consume.

I want to thank the Senator from Ohio for the position that he has taken. Senator LEVIN last night gave a very good speech on the subject and I appreciate his support.

First of all, I want my colleagues to understand that this is indeed a promotion. The general officer announcement put out by the Department of Defense announces that General Glosson has been nominated, in their words, "for advancement." It is up to the Senate now to determine if General Glosson's record since his last promotion warrants one final promotion.

This is not a matter of taking away a star from General Glosson. You cannot take away something that is not there. It is the Senate's responsibility to award that star or deny it. If this is not true, then why is this nomination for advancement before us?

Second, there is a record on General Glosson resulting from a criminal investigation by the independent Office of Inspector General of the Department of Defense. That record says that the general tampered with the promotion board and that he lied under oath about what he did. Period. That is potentially a court-martial offense.

A subsequent panel examined the same evidence as the inspectors general and came away with the same conclusion for the same reason with one semantical difference.

A dark cloud still hangs over General Glosson's name. He tampered with the promotion board, and he was not truthful about what he did.

This issue in this nomination is really all about and nothing but integrity—integrity as it applies to General Glosson and also integrity as it relates to our responsibilities in the U.S. Senate.

In my view, this confirmation comes down to one thing: It is an issue of integrity versus friendship. And I know that he made a lot of friends here in the Senate. I know that he facilitated a tremendous amount of access for people up here over at the Pentagon. But friendship should not be the No. 1 concern of this body in carrying out its responsibilities in the confirmation process.

This nomination is not being pushed even by the Air Force. The Secretary of the Air Force came to my office the other day and spoke on behalf of the other Air Force nominees, but she did not speak on behalf of General Glosson. Why? Because this is an issue of integrity. Every single member of the U.S. Air Force, from the lowliest private to the highest general, is watching this vote.

Here is a general whose integrity is in question and they see a small group of Senators, who are friends of his,

scurrying to protect him, trying to whisk him through the nomination and confirmation process. To confirm General Glosson with such a record still standing would set a terrible example. It would serve as a blemish on the military promotion process. It would demoralize military men and women across America. And it would give the U.S. Senate a blemish on our record.

Let me respond to some of the points raised last night by my friend, the Senator from Georgia. The first point is that the Senator from Georgia admits that General Glosson knew he was interfering with the promotion process. This was a clear violation of Air Force regulations and that is point No. 1.

Point No. 2, the bottom-line distinction between the Senator from Georgia and this Senator from Iowa, is the degree of punishment required. I will come back to that point in just a bit.

The Senator from Georgia admits that he is a friend of General Glosson. But we should still even hold our friends to very tough standards. You see, General Glosson broke the same rule in tampering with a promotion board that this committee was so concerned about just 3 years ago. In 1991, the Senate Armed Services Committee recommended making violation of this very rule, 36 to 9, into a criminal offense. Let me quote from the committee report:

> Improper influence on the board would be prohibited, and violation of the regulations implementing this section would constitute a criminal violation of the Uniform Code of Military Justice.

Therefore, if we judge General Glosson by the very same standards that the Armed Services Committee proposed in 1991, he could be facing a potential court-martial rather than being promoted here on the floor with a third star rank. That is why I suggest to my colleagues that this is an issue of integrity versus friendship. I hope this body knows which principle is more important to the American people.

The reaction—in 1991 the Air Force failed to comply with the directions issued by Cap Weinberger on the promotion process, 8 years ago. The reaction by the committee then was to block the retirement of Lieutenant General Hickey in grade for refusing to implement the changes favored by Weinberger and favored by the committee. He was forced by the committee then to do exactly what I am asking my colleagues that we do for General Glosson. What is good for the goose is good for the gander—we should take this matter seriously—and to deny him a promotion.

Now on the issue of lying. Last night the distinguished chairman said that every lawyer knows that to charge someone with perjury you have to show intent. I believe that is exactly what this investigation did. That is why the conclusions were signed off on by the Air Force JAG and by the Air Force general counsel, who, by the way, are obviously lawyers. Intent, mens rea, as it is known, could not have been determined easily by the outside panel as I mentioned last night. Last night I spoke about the investigative process. As a member of the Judiciary Committee, I think I am familiar with that. In legal proceedings, facts are determined by skilled factfinders: The trial courts. In ensuing appeals, the appellate courts are to provide deference to the factfinding of the trial courts. This deference is especially strong where the district court's factual findings were based on live testimony, where the district court was able to evaluate the credibility of the witnesses, based on the testimony and mens rea.

The IG heard all the witnesses, and their findings on credibility should not be dismissed lightly. Because parties often disagree about the facts and because anyone can testify in a self-serving way, the processes of cross-examination and observing credibility are extremely important in resolving the factual inconsistencies in litigation generally. The three-member panel did hear live testimony. However the panel's live testimony was taken long after the IG's heard testimony, nearly 1 year after the time when witnesses' memories, except apparently General Glosson's, were very much fresher. In my view, therefore, the three-member panel review does little to persuade me the IGs' finding of lying was wrong. This is especially true since a panel of factfinders said General Glosson's testimony to them was evasive and misleading.

Finally, let me address the issue of the possible court-martial effects. The Senator from Georgia last night said I made one mistake. He said interfering with the promotion procession is not a possible court-martial offense, but rather an administrative offense. And of course leaving aside the fact that the committee's own standards was to make it a criminal offense, let me address the Senator's point directly.

I have in my hand a letter from the American law division of the Library of Congress. And their opinion begs to differ with that offered by the chairman last night. I am not going to read it. On three different articles of the Uniform Code of Military Justice, this memorandum says that a prosecution is conceivable, given the allegations similar to those against General Glosson. So in closing I suggest that the American law division's opinion is squarely on all fours with the committee's proposed standards of 1991.

Madam President, I reiterate to my colleagues that this is an issue of integrity versus friendship. This nomination fails on all standards but one, and that one is friendship. And that is not what this institution should be in business pushing—certainly not ahead of integrity.

Madam President, I ask unanimous consent to have printed in the RECORD a lot of questions I had prepared to ask of the distinguished chairman last night but did not have time. These questions remain unanswered.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

IMPACT ON INSPECTOR GENERAL

Mr. GRASSLEY. Madam President, let me touch on another downside in voting for General Glosson's promotion: the impact such action by the Senate will have on the Office of the Inspector General at DOD and on inspector generals throughout the Government.

As my colleagues well know, we passed the Inspector General Act to establish a watchdog in the executive branch who would look out for the interests of the taxpayer.

Unfortunately, over the years it has been difficult to ensure that the IG's have the knee braces necessary to withstand political pressure and make the tough calls.

We are fortunate in this case that the DOD IG has shown strong resolve, has made the tough decisions, and done so in the face of fierce opposition from the "E" Ring at the Pentagon.

The IG did not shrink from its duty regarding General Glosson. The IG's report does not equivocate, or hedge, or caveat its findings.

It is this type of commendable action that we hoped would be commonplace when Congress passed the Inspector General Act.

Instead of taking steps to support this strong action by the DOD IG, by voting to promote General Glosson, the Senate is sending the absolute wrong signal.

Voting to promote General Glosson is a slap in the face to all IG's who are trying to do a good job. It is telling IG's throughout the Government that the U.S. Senate doesn't care if you do your job honestly and diligently, the U.S. Senate will disregard your findings that public officials have violated the law and lied. Not only disregard, but give a promotion to people the IG has found guilty of violating the law and lying.

There is another aspect to this vote which undermines the IG. Not only are we saying that we will ignore the IG's findings and will promote those who the IG finds have lied and broken the rules. We are also saying if we do not like the IG report, we will put together our own panel, select the members and tell them to do another investigation.

Why do we even bother having an IG if we are going to put together our own investigation if we do not like the findings?

We are setting a terrible precedent by turning our back on the IG's work.

And in doing so we are causing great harm to the Office of the Inspector General at DOD and similar IG offices throughout the Government.

EXHIBIT 1

1. How do you explain the Committee's recommendation for confirmation of LTG Glosson to the midshipmen at the Naval Academy who saw their peers expelled for cheating on a test? Hasn't the Committee set up a double standard?

2. The IGs and the factfinders agree that LTG Glosson lied to the three selection board members when he told them that General X had lied to the Chief of Staff and also when he told them that the Chief of Staff did not want General X promoted? Why are those lies not discussed in the Committee Report on the nomination?

3. Although the Committee Report on the nomination states that improper communication to selection board members is an administrative matter, not a criminal offense, wasn't the IG investigation run as a criminal investigation on the advice of the Air Force Judge Advocate General? Didn't the Judge Advocate General believe that the allegations by the three board members, if substantiated, could warrant consideration under the Uniform Code of Military Justice? Was the Judge Advocate General's advice incorrect?

4. Don't LTG Glosson's proven actions to interfere with the promotion board (including making false statements) constitute Conduct Unbecoming an Officer, a violation of Article 133 of the Uniform Code of Military Justice?

5. Why do the factfinders comment only on those witnesses who testified favorably about Gen. Glosson's integrity and not comment on those witnesses who were not favorable to LTG Glosson in their testimony before the factfinders and the IGs.

6. What explanation have you received from DoD regarding why the Secretary of the Air Force's sole action in the matter was to give LTG Glosson a letter of admonishment for creating an appearance problem? Since she was brand new in her job, from whom did the Secretary of the Air Force seek advice on how to address this matter?

7. Did the Secretary of the Air Force's action start a chain of cover up actions by the DoD to protect LTG Glosson?

8. Didn't the DoD and Air Force senior leaders repeatedly tell the Senate that the allegations were a result of mutual misunderstanding between LTG Glosson and the three selection board members? Do their statements in this matter raise concerns about the overall good judgment of the people running DoD and the Air Force?

9. In assessing LTG Glosson's suitability for retirement in grade, did the Committee consider testimony from the Air Force Chief of Staff that LTG Glosson told him that the three selection board members were engaged in a conspiracy to fabricate allegations against LTG Glosson and thereby embarass the Chief of Staff? What does this say about LTG Glosson's character?

10. What message does the Committee's recommendation give to other generals and admirals? And to all other members of the Armed Forces?

11. The Committee Report on the nomination implies that only a criminal conviction is sufficient reason to deny retirement in grade to three and four star officers. Is this the Committee's view?

12. Since 1990, on how many instances has the Committee acted to deny retirement in grade to a three or four star officer? What were the circumstances of each case?

13. Since 1990, on how many instances has the Department not submitted the nomination of a three or four star officer to retire in grade? What were the circumstances of each case?

14. Why was the DoD unable to address adequately the Committee's concerns in testimony before the Committee on March 9, May 17, May 24 and June 27, 1994 and in its multiple written submissions to the Committee?

15. When the Committee directed the DoD to obtain a review by persons not involved in the matter, why did DoD cause the review to be performed by persons who either knew LTG Glosson or who were associates of LTG Glosson's supporters in the DoD? Why didn't DoD get factfinders who brought no baggage to the table?

16. Does the Committee's recommendation to the Senate serve to improve the military promotion process?

17. While LTG Glosson may have served well as a Captain in Viet Nam and as a one star general in the Gulf War, how do you characterize his service as a three star officer? Isn't that the question here?

18. Do you see a moral distinction between trying to help a friend get promoted and trying to block a promotion, as did LTG Glosson, because of a grudge?

The PRESIDING OFFICER. The time of the Senator from Iowa has expired. Who yields time? The Senator from Georgia and the Senator from South Carolina each control 5 minutes.

The Senator from South Carolina is recognized.

Mr. THURMOND. Madam President, it is Saturday, the 103d Congress is about over, and I intend to be brief. I want to make it clear, however, that this brevity should not be interpreted as a lack of resolve to see this fine officer confirmed to retire as a three-star general. Let us review very briefly the facts.

Everyone in the administration from the President of the United States on down who has reviewed the information on General Glosson has recommended that he retire as a lieutenant general.

I remind the Senate that President Clinton has recommended this, Secretary of Defense Aspin recommended it, Secretary of Defense Perry recommended it, Secretary of the Air Force Widnall recommended it; the Air Force Chief of Staff McPeak recommended it. They all recommend Lieutenant General Glosson retire in the rank of lieutenant general. How can all these people be wrong? They are not biased. They looked into it carefully.

Next, his remarkable war record in Vietnam: General Glosson flew 139 combat missions. During Desert Storm Lieutenant General Glosson planned and helped supervise the execution of the most successful air campaign in our Nation's history—a very able man, a patriotic man, a dedicated man.

Lieutenant General Glosson made the mistake of speaking to some board members when he should not have. This indiscretion caused him to receive an adverse letter and retire before his career had reached completion. Without doubt, this has caused both him and his family extensive personal discomfort.

The adverse results of the inspector general report were rejected. You hear talk about this inspector general's report—that was gone into by a panel appointed by the Defense Department. And they rejected that—by this special 3-person panel appointed by the Department of Defense.

General Glosson has given his country 29 years of his life. During those 29 years he has been willing to lay his life down in the defense of his country. It is hard for me to believe that we would seriously contemplate retiring this outstanding officer at a lesser grade for a single indiscretion. I urge each of you to vote to retire General Glosson as lieutenant general. It is only fair. It is only right to do this. It is only right for him and his family and his country.

I yield the floor.

Mr. HELMS. Madam President, I am grateful for the leadership of the chairman of the Senate Armed Services Committee, Mr. NUNN, and especially for that of the remarkable Senator from South Carolina, [Mr. THURMOND].

They have advised on and consented to the nomination of Gen. Buster Glosson to retire as a lieutenant general, a wise and informed position the Senate would have done well to follow.

His career began in 1965 when he graduated from the ROTC Program at the University of North Carolina State. From that day on, his life has been a series of successfully completed missions and assignments. An extraordinary ability to inspire the confidence of his superiors and the loyalty of his subordinates have characterized his entire service.

Success, is not always an unalloyed advantage. It has at least one negative effect. Those who can not replicate it often feel constrained to denigrate it. In a pyramidal structure like the Air force any senior officer is in a position of extreme visibility, a target, and inevitably constitutes completion. And so it was with Glosson.

It is unfortunate that in the process of reviewing the general's qualifications, every possible decision was informed, or rather misinformed by the general's detractors rather than illuminated by his own performance, and the testimony of those who knew him best. Otherwise we would not now be discussing his nomination, for he would not have resigned.

One of the most moving tributes to any man that I have ever read was volunteered to the Senate Armed Services Committee by five pilots who flew, under General Glosson's direction, the previously untried F–117's, called by the world, Stealth bombers. These are the aircraft that won the gulf war, aircraft Glosson had to send out knowing

that each pilot in them also knew there was a high possibility he might never come home, not because of anything wrong with the planes or still less their pilots, but because the triple A was sometimes so thick in the air a bee would have been in danger.

General Glosson instructed these pilots not only in how to fly missions, but on how to describe them on return—truthfully, whatever mistakes might have been made. I would like the Nation to read that letter.

If my grandchildren ever enter the armed services of their country, this is the kind of man I want them under: A man who tells his subordinates as General Glosson did, that their most important mission in life—not just in battle, but in life, is to take care of their people; a man who is a fighter pilot with over 3,800 flying hours who has never lost a wingman; a man who told a thousand fighter pilots a few hours before sending them to war.

> There is not a damn thing in Iraq worth dying for until the first soldier, marine or airman crosses the border * * * then your responsibility has no limit * * * good luck and godspeed.

The story that follows is not a pretty one, yet I am afraid it is all too typical in today's Washington. It is a saga of people in positions of public power attempting to use that public power for private purposes.

It began this way. In early September 1993 Air Force Chief of Staff McPeak informed selected Senators and senior congressional staff that Lt. Gen. Buster Glosson would be nominated for his fourth star for the position of Vice Chief of Staff.

That was a great achievement for General Glosson, but not good news for the Air Force, as the Vice Chief of a service is always the obvious candidate to move up to the top position. But this was not something the Airforce liked as Glosson was not an insider, not in the group of Academy graduates, who had always run things its own way, and intended to continue. Glosson was a visible, talented, fast moving outsider with new ideas for organizing the force, which were not necessarily derived from academy assigned text books.

He combined technical skills with managerial know how, and a vast reservoir of energy with brains. He acted faster, better, and without terror at the thought of change.

Worse—from the insiders' point of view, Glosson had distinguished himself at every level of his career culminating in his brilliant conduct of the air war in the gulf. After planning that war he commanded all Air Force fighter and bomber missions flown in Iraq. And his eye was always, not only on the target, but on the invaluable lives of those he sent into battle. Future students of military engagements will find his casualty rates at an all time low.

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Now there is a profile to strike terror into a Washington cadre of desk and pencil warriors. The Air Force, thought the Academy boys, must be saved from the likes of Glosson. After an intensive search and apparently very careful planning, for it was difficult to find anything negative about this man, they had to settle for charging him with an attempt to influence a promotion board.

This admittedly arcane Air Force restriction was a slim reed on which to fabricate a charge which would end in resignation, but it was all they had. And Glosson's brilliant record was making it harder every day. But the Academy Air Force had no wish to be eclipsed by a blue version of General Schwarzkoph. This kind of group-think is not unprecedented in military history. It was only recently that a group of midshipmen decided that loyalty to one's buddy was more important than telling the truth on a matter related to the honor of the service.

The generals themselves have admitted under oath that they got together and discussed want they did next, although amazingly little of it appears in the record. The three generals, Nowak, Ryan, and Myers stated that they had three or four conversations together on the subject of their subsequent accusations. But their testimony was so similar that a junior police officer would recognize its improbability.

Their choice of an accusation was not an entirely random pick given that Glosson, in the normal course of conduct, had expressed dissatisfaction with the man's performance in front of at least half a dozen other officers.

This, of course, was only wrong if the general knew when he spoke that those present were certainly on that individual's promotion board and wrong only if the general said did what he did specifically to affect the proceeding in the promotion board. For if every comment about another person can only be made after polling a given room to see if present company is apt to act on his nomination we have created an absurd new standard of conduct. It is interesting to see how many people have pronounced him guilty of the intent to affect proceedings without the faintest idea how such ability might even be defined.

If Glosson had one problem it was in telling too much of the truth. He had expressed himself, as everyone who knows him knows he is apt to do, bluntly on the inferior performance of an incompetent Air Force general. Witnesses testified for the record that he had been doing this for at least 2 years before the man was promotable.

But suddenly in the ears of Generals Myers, Ryan, and Nowak this became a specific effort to suggest a specific action to a specific promotion board which had not convened and whose composition had not been announced. It is a testimony to General Glosson's probity that this is the best that Generals Ryan, Myers, and Nowak could do. But finding nothing else of which to accuse their rival and after sufficient collusion, the three generals reported their allegations to General Butler, president of the promotion board, and General Carns, Vice Chief of the Air Force.

These two took the matter to the Air Force Secretary, probably secure in the knowledge that the current political climate, a climate in which senior military officers are now routinely excoriated for political reasons, would make it impossible for her to defend one.

And indeed, Air force Secretary Widnall decided on an investigation by the Air force inspector general, a man named Fischer, whose competition with and dislike for Glosson were well known within Air Force circles. In fact, Glosson had urged General McPeak to force Fischer into early retirement after Glosson learned that Fischer had made improper sexual advances to a protocol officer, on an official visit to Eglin Air Force Base, a matter Fischer initially lied about, but later admitted.

Secretary Widnall was warned that Fischer was not an unbiased investigator. In a gross misuse of power Widnall acknowledged Fischer's bias against Glosson but permitted him to conduct the investigation anyway.

The results of the ensuring investigation were surprising in only one way. Fischer omitted from it the testimony of three individuals who were witnesses to the alleged effort by Glosson to prevent the promotion, say that General Glosson did no such thing and refuted all or part of each officer's allegation. Amazingly, perhaps recognizing the weakness of his ground, the IG added to the charge the general's own protestation of innocence, calling it a lie under oath, a charge subsequently found to be unsupported by the final panel.

When General Glosson attempted to clear himself from these star chamber allegations he was told by General Counsel Cheston that he had been given all materials considered by the inspector general sufficiently relevant and appropriate. He was told that five additional memoranda would be kept from him. We now know why. These memoranda reveal that Generals Loh, Yates, Oaks, and Carns were asked to comment on the comparative general truthfulness of the complainants and General Glosson. In other words, they were asked, will you insult three of your colleagues or just one? An interesting evidentiary procedure.

General Horner has stated for the record that he was provided a biased view of the evidence before his testimony was solicited. Evidently General Glosson was not intended to discover

that this was routine procedure. Obviously if Glosson was not to be given any evidence against him he had no chance to answer his accusers—and this in 20th century America?

After Major General Henry testified in Glosson's favor he was subsequently reinterviewed in a confrontational and disrespectful manner, the everyday word is browbeaten, with the suggestion that he was lying. Oddly enough this technique was never used on those supporting the preconceived verdict of the IG. General Henry's testimony should have been an insurmountable obstacle to the impeachment of General Glosson's credibility as in fact it was. But the IG's ingenuity was equal to the task.

A second phone call was invented, one that General Henry did not hear, one that even General Ryan could not subscribe to. But it was not a problem for the IG to attempt to indict General Glosson on the basis of a phantom phone call. I wonder if the Senate could not better use its time on an investigation of the IG process and personnel in the Department of Defense. Their procedures do more to indict themselves than anyone else.

This whole story is reminiscent of Alice in Wonderland, "verdict first, trial afterward". When an aggressive and prosecutorial Department of Defense inspector general conducts what the independent final report calls argumentative grillings of one side and sycophantic, respectful ones of the side they support, the inspector is out of control. When an Air Force IG engaged in tactics like calling Air Force generals with questions like, "these three generals say one thing, General Glosson says something else, who would you believe?" It is the same. Now these people may not be lawyers, but they are adults. They should know better.

As a result of this investigation Widnall issued an improper letter of admonishment to Glosson, which was enough at his level to terminate his future in the Air Force. He had no choice but to resign.

His resignation, however, was not enough. The Air Force faction, with vitriol worthy of the Borgias, decided to force Glosson's retirement as a two star, despite the custom which would normally prevail: To retire with the rank held at the time of resignation. Since Widnall, McPeak, and the then Secretary of Defense Aspin, had all recommended the three star level, and sent that recommendation to the White House, a flurry of activity aimed at Congress began inside the Air Force, whose officers, Mr. President, should have had better things to do with the taxpayer's time.

Moreover when the nomination went to the White House, the Air Force supported by elements of the inspector general group, began a series of highly unethical press leaks, in an illegal effort to do by devious means what could not be done honorably and openly. This had no effect on the White House, which sent to the Senate the three star recommendation, but it could have had a considerable one on the reputation of the man and his family. But such considerations were not of interests to the prosecutors.

But the accusers' techniques nearly backfired. Having taken the matter to the press they had to live with an investigative reporter's double discovery: First that everyone in the Air Force, including Chief McPeak, knew about the sexual malefactions of IG Fisher, kept them quiet, kept him on active duty for 6 months and recommended his retirement with three stars. Second, that Inspector General Fisher's bias was known to Widnall when she made the investigation assignment. These were two indefensible decisions, and amazing ones in the wake of Tailhook. One can not help but notice that admitted sexual harassment in the Air Force is passed over without comment but unproven allegations of influencing a promotion is a terminal offense.

Finally, the matter went to the final review panel at the insistence of the Senate Armed Services Committee and the final review panel said yet again that General Glosson told no lies. The final review panel's members, usually careful people, inadvertently I am sure, took character references from everyone in this shameful episode known to support the Air force clique and neglected to interview five of the seven people who had supervised Glosson as a general officer and who have said, informally, some directly to me, that they would have been happy to have had the chance to deny strange remarks unprofessionally included in the record—like, "this might be the sort of thing he could have done." I am not a lawyer, but it is clear to me that if this is what sort of thing that passes for evidence in IG investigations we are in very poor shape indeed.

And evidence is what is needed. One certainly should not force a man's resignation, deny him his duly earned rank, and destroy his reputation on the ephemera of impressionistic characterizations.

Most of those involved in this matter, and many others none of whom who are in interested or adversarial relations with General Glosson, wholeheartedly support his candidacy. The pilots and others who have worked under him, support and admire him. The uniformed bureaucrats in Washington press think otherwise. I believe that the Senate should have stood with the pilots.

The PRESIDING OFFICER. The Senator from Georgia has 5 minutes, the Senator from South Carolina has 2 minutes.

Mr. THURMOND. I yield to Senator LOTT the remainder of my time.

Mr. LOTT. Madam President, might I inquire how much time that might be?

The PRESIDING OFFICER. The Senator has 1 minute and 50 seconds.

Mr. LOTT. Madam President, therefore I will certainly be very brief.

I first just want to make it very clear that I do not know General Glosson personally. I base my decision on this issue strictly on the hearings we had in the Armed Services Committee. There is no doubt in my mind, though, that Lt. Gen. Buster C. Glosson should be retired in grade. He has had a distinguished career, one of the most distinguished Air Force careers that we have now among everybody currently in service in the Air Force.

His service as a F–4 pilot in Vietnam, his combat missions had already been noted. His responsibility for planning and implementing the air campaign and Operation Desert Storm—for all of those who are familiar with what he did there, they say he did an exemplary job. He is a strong leader and his service as Air Force Deputy Chief of Staff for Plans and Operations were all outstanding and I think it is appropriate that record be referred to. In my opinion after spending a lot of time reading on this issue, studying it very carefully, I am convinced that the IG investigation of this matter was biased.

I ask unanimous consent to have printed in the RECORD at this point at least one newspaper article that refers to the biased investigation of the inspector general.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Apr. 14, 1994]

IG IN PROBE OF GENERAL HAD BEEN INVESTIGATED

(By Rowan Scarborough)

The Air Force general who directed a promotion-tampering investigation of a Persian Gulf war hero had himself been accused of sexual harassment when the probe began, according to senior Pentagon officials.

Lt. Gen. Eugene Fischer, accused of kissing a junior female officer on the mouth, was asked to retire early before conducting the probe.

Gen. Fischer was Air Force inspector general (IG) when he found Lt. Gen. Buster Glosson guilty of meddling last year in the promotion of a brigadier general. Gen. Glosson, a decorated Gulf war officer, was admonished for his actions.

The fact that Gen. Fischer had been accused of sexual harassment was one of several irregularities in the Glosson inquiry.

Gen. Fischer also exposed the confidential investigation to outside influence by seeking advice from Air Force generals not connected to the probe, the officials said.

Gen. Glosson has denied wrongdoing and said witnesses who testified in his favor were basically ignored in Gen. Fischer's findings.

The Glosson investigation was traumatic for the Air Force. It derailed the promising career of one of its most famous officers, a fighter pilot who planned the successful air war against Iraq. He seemed destined to gain

a fourth star and to perhaps eventually become Air Force chief of staff.

After Gen. Fischer's probe, Gen. Glosson requested early retirement, but the issue is not over. Under military law, the Senate must vote on whether to retire the general at full rank, and at least one senator is waging a public battle to strip Gen. Glosson of his third star.

Interviews conducted by the Washington Times with Pentagon and Air Force officials show irregularities in the Glosson investigation, including:

Gen. Merrill McPeak, Air Force chief of staff, asked Gen. Fischer to retire last summer, one year after receiving a report on a sexual harassment complaint brought by a female captain at Eglin Air Force Base, Fla. Gen Fischer convinced Gen. McPeak to let him stay until November, a month after he completed the Glosson probe.

"He should have gone early, but the chief was too soft. I think the chief was too nice to him," said an Air Force official.

Lt. Col. Doug McCoy, a spokesman for Gen. McPeak, said yesterday the general was out of the Pentagon and not available for comment. Col. McCoy said he was told Gen. Fischer asked to retire last June.

At the time Gen. Fischer was seeking an extension, Gen. Glosson, the deputy chief of staff for plans and operations, was advising Gen. McPeak to reject the request. The discussions occurred before Gen. Glosson was placed under investigation.

Gen. Glosson's advice to Gen. McPeak became well known among senior Air Force officers, possibly including Gen. Fischer.

During the course of the investigation last October, Gen. Fischer telephoned four-star generals, told them his version of the case and asked their opinion of Gen. Glosson's veracity.

Pentagon officials say his actions violated the probe's confidentiality. The calls also opened it to outside influence by senior generals who did not know all the facts and who may have had reason to scuttle Gen. Glosson's career.

"I think he called all the four-stars in the Air Force," said a senior Pentagon official.

Asked about The Times' findings, Gen. Glosson's attorney, Charles Gittins, said yesterday: "If true, these issues are matters of grave concern to Gen. Glosson because they call into question the integrity of the IG system. Nonetheless, Gen. Glosson has full confidence that upon review of the investigation, the Senate Armed Services Committee will agree he engaged in no improper conduct."

Messages left with Gen. Fischer's home answering service were not returned yesterday.

In February 1993, Gen. Fischer was attending a symposium for generals called "Corona" at Eglin when the sexual harassment incident reportedly occurred.

He was accused of making an unwanted sexual advance to a female captain, who filed a report saying the three-star general kissed her on the mouth.

"She just felt uncomfortable," said a senior Pentagon official. "She felt he was a general and, at her grade, it should be reported to superiors."

The Air Force handled the complaint by calling in a three-star Air Force general stationed outside the Pentagon to investigate.

His findings were inconclusive, in that the captain's accusation was initially denied by Gen. Fischer.

Nonetheless, Gen. McPeak asked Gen. Fischer to retire last summer, but then extended the deadline to November, according to Pentagon and Air Force officials.

Later, according to two knowledgeable sources, Gen. Fischer recanted his earlier statement shortly before he left the service and admitted making a sexual advance to the captain.

In October, three generals on a major-general promotion board reported that Gen. Glosson contacted them and criticized the credentials of a brigadier general up for two-star rank.

An investigation was ordered and, sources said, several senior officers recommended to Air Force Secretary Sheila Widnall that a retired general be brought in to investigate Gen. Glosson.

While some officers were trying to have Gen. Fischer kept out of the probe, Gen. Fischer and the Defense Department inspector general reached agreement on jointly investigating Gen Glosson.

In October, Gen. Fischer and the Defense Department IG found that Gen. Glosson tampered in the promotion process. In a more serious charge, the IGs said he lied to investigators about his communication with board members.

Gen. Glosson and witnesses on his behalf said he was unaware the three generals sat on the confidential board. They also said the three board members misconstrued his remarks. Gen. Glosson denied lying.

During the probe, Gen. Fischer telephoned four-star officers seeking advice.

Gen. Charles Horner, commander of Air Force Space Command, said in an interview that Gen. Fischer telephoned him on a Saturday morning at his home and asked his opinion about the case.

"I said I had confidence in the veracity of all four officers," Gen. Horner said, referring to Gen. Glosson and the three board members.

Gen. Horner said he believes that if Gen. Fischer wanted opinions from four-star officers outside the probe he should have taken sworn testimony.

When Mrs. Widnall received the IG's report, she could have sought a court-martial on the charge of lying. But instead, she involved a relatively mild punishment, issuing a letter of admonition.

The letter, however, ended Gen. Glosson's chances for promotion and he filed for early retirement. The White House nominated him to retire at full rank.

The Senate Armed Services Committee plans to hold a hearing on his retirement next month.

Sen. Charles E. Grassley, Iowa Republican, plans to fight Gen. Glosson's three-star retirement once the issue reaches the Senate floor for a vote.

Mr. LOTT. Madam President, how did the committee come to this conclusion? I have been on the Armed Services Committee for 6 years. I have never seen us be more thorough in looking into a matter, having hearings on it, discussing it with each other, bringing in the Secretary of the Air Force, the Deputy Secretary of Defense. We have talked to Secretary Perry. We have been very careful to look over the IG reports.

The PRESIDING OFFICER. The time allotted to the Senator from South Carolina has expired.

Mr. NUNN. I yield the Senator 30 more seconds.

Mr. LOTT. Madam President, I thank the distinguished chairman of the committee.

The Armed Services Committee even sent this issue back to the Pentagon about 2 months ago and said, "Take another look at this, get outside people involved and analyze it all." They came back with information for us that I thought was very fair in its presentation, and the committee voted overwhelmingly, on a bipartisan basis, to support this general's retirement.

The President, the Secretary of Defense, the chairman of the Armed Services Committee, the ranking member, we all believe that the fair thing, justice in this matter is to give General Glosson his retirement.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Madam President, as I see it, there are two issues here. If you believe that General Glosson lied, then I think you should vote against him. If I believe he lied, I would vote against him. I have known him for a long time. I have known him in a way that time after time he has been frank and candid on programs involving the Air Force when it would have been to his benefit to fudge the facts.

The one thing Buster Glosson is, if anybody knows him, and all of his compatriots will tell you this, he is frank and candid, many times to his own detriment. So I do not believe he lied. But if someone does believe he lied, they ought to vote against him. We should not have three stars on an officer who lied. I do not believe that is the case.

The second question is, he made a mistake, there is no doubt about that. He talked to military officers that he either knew or should have known were on the promotion board. In my opinion, he probably did not know they were on the promotion board. He says he did not, and I believe him. But the odds are they could have been, therefore, he should not have talked to them about another officer in a derogatory way. That was a serious error.

Now the question is, has he been punished enough? Madam President, this individual has been one of the most outstanding military officers we have had since World War II. He literally ran the air war in the Persian Gulf under General Horner and under General Schwarzkopf. He was responsible for the plans and the operations. There has been no more successful air campaign since World War II.

Time after time, he risked his life in Vietnam. He received just about every medal you could get in Vietnam.

The question is, has he been punished enough? What has happened to him is that he was slated to be one of two, three, or four people who would have been carefully considered to be Chief of Staff of the Air Force. Everybody knew that Buster was on a fast track because he had had an absolutely superb career. He lost that opportunity. He was retired 6 years before his term would have expired. In terms of his mandatory retirement, he basically has had

publicity all over the Air Force Times, negative publicity. He has been embarrassed. He has been interrupted in his career.

There could be no more severe punishment for General Glosson. I know that. That is the way he views it, the way his friends view it, the way his family views it. This man has been punished.

This is not condoning what he has done. Our question is whether we take away a star and revert him to two stars when he earned three stars when he was on active duty. No one has deserved three stars more than General Glosson. The question is whether he retires now with two stars.

In my view, he has been punished enough. If somebody wants to punish him more, they can do that. But by voting for him now, believe me, we are not condoning or winking or looking the other way at anything he has done. This is a question of matching an overall career versus the punishment he already suffered for what was a serious mistake.

This was not a court-martial offense. This was an administrative offense. If it had been a court-martial offense, that would have been another situation. This is an administrative matter, but it was a serious mistake and the Senate will have to decide whether General Glosson has paid for that mistake. In my opinion, he has paid for the mistake. He earned those three stars. He has had an outstanding career. He has risked his life time after time after time for this country. He has done so without blinking. And now we have to decide whether that serious error at the end of his career basically wipes out the slate of what he has done for this country and for the U.S. Air Force.

Madam President, I hope that the Senate will agree with the conclusion of the majority of our committee that General Glosson has had an outstanding career and has been punished enough for the mistake he made.

Mr. DOLE. Mr. President, I rise in support of the nomination of LTG Buster Glosson to retire in grade. General Glosson has served our Nation with honor and distinction for 29 years. From the Vietnam war to operations Desert Shield and Desert Storm, Buster Glosson displayed the tenacity, courage and valor which are in our country's highest traditions. He is, in every way a hero. I appreciate all he has done for me and for my State of Kansas, but more importantly, I appreciate what he has done for the security of our Nation and to the freedoms we enjoy. A grateful nation owes him a tremendous debt of gratitude. I extend my best wishes to General Glosson and his family in his retirement, but I know that his service to our country does not end here. Mr. President, I urge my colleagues to join me in supporting this nomination and to join with we in thanking LTG Buster Glosson for the service he has given to our country.

Mr. NUNN. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. I yield back any time remaining.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of LTG Buster C. Glosson to the grade of lieutenant general on the retired list pursuant to the provisions of title X, United States Code, section 1370.

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Tennessee [Mr. SASSER], and the Senator from South Carolina [Mr. HOLLINGS] are necessarily absent.

I also announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of attending a funeral.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Montana [Mr. BURNS], the Senator from North Carolina [Mr. HELMS], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 30, as follows:

[Rollcall Vote No. 327 Ex.]

YEAS—59

Akaka	Dole	Mathews
Bennett	Domenici	McCain
Biden	Dorgan	Mitchell
Bingaman	Durenberger	Moynihan
Bond	Faircloth	Nickles
Boren	Feinstein	Nunn
Breaux	Ford	Pell
Brown	Gorton	Reid
Bumpers	Graham	Robb
Campbell	Gramm	Rockefeller
Chafee	Hatch	Shelby
Coats	Heflin	Simon
Cochran	Hutchison	Simpson
Cohen	Inouye	Smith
Conrad	Johnston	Specter
Coverdell	Kassebaum	Thurmond
D'Amato	Kohl	Wallop
Danforth	Lieberman	Warner
Daschle	Lott	Wofford
DeConcini	Mack	

NAYS—30

Baucus	Exon	Jeffords
Boxer	Feingold	Kempthorne
Bryan	Glenn	Kennedy
Byrd	Grassley	Kerrey
Craig	Gregg	Kerry
Dodd	Hatfield	Leahy
Levin	Moseley-Braun	Riegle
Lugar	Murray	Roth
Metzenbaum	Pressler	Sarbanes
Mikulski	Pryor	Wellstone

NOT VOTING—11

Bradley	Hollings	Packwood
Burns	Lautenberg	Sasser
Harkin	McConnell	Stevens
Helms	Murkowski	

So, the nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President will be notified immediately of the Senate's action.

AIR FORCE

The PRESIDING OFFICER. The clerk will now report executive calendar number 1281.

The bill clerk read as follows:

The nomination of Col. Claude M. Bolton, Jr. to be Brigadier General.

The PRESIDING OFFICER. Is there further debate on the nomination?

If not, the question is on agreeing to the nomination.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, first of all, I want to thank the large number of people that voted against the promotion of General Glosson. As I said so many times, I have been, over the last year, spending a great deal of time studying various reports, particularly those of the inspectors general, to bring the public's attention and this body's attention to things that are wrong in the Defense Department—maybe not worse than other bureaucracies, but I have been concentrating on the Defense Department—in an effort to bring some accountability to an accountability of the expenditure of the taxpayers' money, better management by people who are responsible to carry out their duties according to their responsibility, and if they are not responsible, to hold them accountable.

I think with the waste of taxpayers' money, these next two nominations are perfect examples of people who should be held responsible. In the case of the Glosson nomination, it dealt with the responsibility and accountability, not necessarily on the expenditure, of taxpayers' money. I have a long case to lay out in both the Barry nomination and the Bolton nomination. But I have been discussing, at least in the case of

Colonel Bolton, some followup that has been suggested to me by staff of the Armed Services Committee that appears to be a reasonable approach to fixing responsibility.

In the case of Colonel Bolton and the waste of $300 million of the taxpayers' money, and 60 cruise missiles laying on the floor of a production plant in California, and some possible violations of the Antideficiency Act, and with Colonel Bolton being the program manager, I think we should pinpoint responsibility.

The Senator from Georgia says that it should not be pinpointed toward Colonel Bolton. Well, then where should it be pinpointed?

So I have suggested to the chairman of the Armed Services Committee that if he, in his capacity—and certainly in the oversight powers and responsibilities of his committee—would, through correspondence, request of the inspector general—the committee has already followed up on the mismanagement of the program, there is no doubt about that. They have done a good job in that regard. But we need to pinpoint responsibility. Somebody has to be held responsible. It seems to me that if the committee is willing to do that, there would not be any reason for us to have a vote on the Colonel Bolton nomination, and we would move forward then to the Barry nomination.

I will discuss that in a minute, after the results of this discussion with the distinguished chairman of the Armed Services Committee. If we decide we are not going to have to have a vote on Bolton, I would then still lay out my case sometime when it is not going to interfere with the work of the Senate. I will stay around to do that.

I yield to the Senator for comment, or whatever he can say at this point.

Mr. NUNN. Mr. President, I thank my friend from Iowa. I will follow his request, and I will join with Senator THURMOND, assuming Senator THURMOND will concur; I have not had a chance to talk to him about this. I believe that instead of writing the IG of the Air Force, it would be more appropriate to write the top official in charge of acquisition, Mr. Komiskey, who is an expert in this area. He is at the DOD level and can review it there, rather than at the Air Force level. I will work with the Senator on that. We will ask him to trace the history of this advance cruise missile program and ask him to assess the things that went wrong, and we will ask him to also assess the responsibility for those things that went wrong.

I have to say, as I said last night, that Colonel Bolton did not take over the management of this program until 1989. The program was started in the Carter administration—at the end of it—under the team there then, and Bill Perry was one of those people. It was developed during the whole Reagan administration. It was a revolutionary technology program involving stealthy characteristics. The program, as many other revolutionary technology programs, ran into overruns and difficulties. The numbers of missiles came down. As the numbers come down, the price goes up. That is what happened. After you wind down a 40-year cold war, you reduce the numbers dramatically, and instead of building a thousand of something, you build a hundred of something, and the price goes up. So that is one of the big problems.

But on Colonel Bolton himself, there is no evidence that he did anything wrong. He took over a program that was already having serious problems. It turned out to be a successful program overall, because it produced a very successful defense capability. But in the process of developing that revolutionary technology, there were cost overruns and technical problems.

The question is, Who is accountable? I am not going to say to the Senator from Iowa that we are going to get an answer that tells you exactly who should be taken out and flogged in a 12-year program of this nature. But I will do my dead level best, and I will work with Senator THURMOND to frame a letter and work with the Senator from Iowa and his staff to frame a letter that would direct the questions at the appropriate people at the DOD level.

If the Senator wants the Air Force level, we can do that, but it is hard for them to look at their own program. Most of these decisions where made by the Secretary of the Air Force, and there were two or three different ones. They are all gone now. So once you assess the accountability, Congress does not have any power to bring them back and flog them, or do anything to them. I am not sure we are going to satisfy the Senator's obvious desire to see someone punished. But I will certainly write that letter, and I will certainly get him the information in good faith, and I will follow through and get as much information as we can about what went wrong and who is responsible for it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, that is satisfactory as long as we have the Department of Defense inspector general involved in the process, because of the independent status of the inspector general to make sure that we have an independent person making a judgment and also because the DOD inspector general in 1991, 2 years after the Senator said that Colonel Bolton took over, said that there was a violation of the Anti-Deficiency Act. That is the Department of Defense inspector general 2 years after Colonel Bolton became program manager.

That is where responsibility to me is fixed.

Mr. NUNN. Mr. President, I will say to the Senator on that point there is a dispute about whether there was an Anti-Deficiency Act violation. The Senator is correct in that I said that. That decision was not made by Colonel Bolton. That was referred by Colonel Bolton to his superior, and it went to the Secretary of the Air Force. That decision on how to fund that program was made by the Secretary of the Air Force, now retired.

There is no doubt about the fact there was a dispute between the Department of Defense IG and the Department of the Air Force on that. There is no doubt about the fact that Colonel Bolton did what he should have done on that, referred it up the line, and he got his orders from the Secretary of the Air Force.

Mr. GRASSLEY. Mr. President, let me ask the question: Would the Senator from Georgia be willing to include the DOD IG?

Mr. NUNN. I am glad to do that. If he prefers the DOD IG I am glad to do that.

Mr. GRASSLEY. I have one more comment before I ask two more questions. Then I think we are done on this point.

First, I think it is a sad commentary that we have a system of acquisitions that, using the Senator's word, we cannot take someone to take out and flog. I am not suggesting we flog someone. But is it not a terrible system that we cannot pinpoint responsibility? And to me that is a major problem.

I know the Senator has been working for 5 years to get acquisition reform and all that, and the Senator may have a lot of things in place so that this will not be repeated down the road. But it seems to me that there has to be a constant vigil to make sure that we can pinpoint responsibility or else we are not going to have accountability. We are not going to have proper expenditures of money.

On the last point, I would only, if I could, through you, Mr. President, ask my friend from South Carolina, who has listened to this entirely, would he join Senator NUNN in making this request?

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I have heard the discussion, and I think what has been said here is proper. I will be glad to join in with the distinguished chairman of the committee on this and the distinguished Senator from Iowa.

Mr. GRASSLEY. OK.

Then, Mr. President, I would not request a vote on Colonel Bolton.

At the same time, I will say this: I am going to make a case on General Barry. I will not request a vote on General Barry, and if the floor leader with his power wants to vitiate the cloture vote, then he will have my assent.

Mr. MITCHELL. Mr. President, I thank my colleague very much for his comments and cooperation.

Do I understand correctly now just so there can be no misunderstanding that the Senator is prepared to not have a vote on either the Bolton or the Barry nomination?

Mr. GRASSLEY. And no cloture will be necessary.

Mr. MITCHELL. Cloture will not be necessary.

Mr. GRASSLEY. Yes. But I do want time to speak.

Mr. MITCHELL. The Senator will have as much time as he wishes.

So, again, I want it understood, that there will be no cloture vote; there will be no rollcall vote at all on either nomination.

Mr. GRASSLEY. The Senator is correct.

Mr. MITCHELL. They will be approved by voice vote.

Mr. GRASSLEY. Yes.

Mr. MITCHELL. So there is no misunderstanding.

Mr. GRASSLEY. Yes.

ORDER TO VITIATE THE CLOTURE VOTES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture votes now scheduled on the Bolton and Barry nominations be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Accordingly, Mr. President, in view of the statement by the distinguished Senator from Iowa for which I thank him, it is my understanding now that these two nominations will be approved by voice vote, no rollcall vote will be necessary on them; therefore, there will be no further rollcall votes.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Iowa. He is conscientious on these matters. He looks at them in detail. We do need careful oversight of the procurement system. In fact, we need careful oversight of every facet of Government, not just the Department of Defense now that we are in a different era. I can say we were a long time in the cold war era. There was almost a compulsion to push the edge of the envelope in terms of technology, and many times in pushing the edge of the envelope programs developed technical flaws. And without any doubt our system of procurement produced the best systems in the world, but many times it did so at a very high cost, and many times there was a lot of inefficiency.

I believe that the new procurement system, which got no attention, I must say, in this Congress, and I read all the critics about nothing accomplished in this Congress. Of course, we did bog down on some items at the end. I have no doubt about that.

But one of the major achievements of this Congress took 5 years to produce and was produced with the cooperation from both the legislative and executive branches, Democrats and Republicans. One of the major achievements had been the overhaul of the acquisition system. It should be a much better system. But it is going to take 5 to 10 years to implement.

We should have a much better procurement system as one of the major accomplishments, in my view, of this Congress and really one of the major accomplishments in the last 15 or 20 years in the Department of Defense.

We will work with the Senator from Iowa on these matters, and I commend him for making this decision and allowing these two officers to be confirmed, one of them retired and one of them promoted, because the committee unanimously decided that though they were in troubled programs they themselves handled themselves superbly and they bore no part of the responsibility in terms of the program problems, that they did what they should have done and when they should have done it. That was the committee judgment by unanimous view.

I thank the Senator from Iowa for his cooperation.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to not only thank the chairman of the Committee of Armed Services for his remarks now but I want to thank him and Senator THURMOND for their cooperation on this last effort.

Also I want to say that over a long period of time, now probably 15 months, I have been working with either Senator NUNN and/or his committee on my interest in these nominations and the whole subject of accountability, including several amendments on which he cooperated with me getting on various Armed Services Committees.

I thank him for not only his cooperation but he in every respect was a gentleman as he had to deal with me, and I do not suppose I am always easy to deal with.

Mr. NUNN. I thank the Senator from Iowa.

Mr. President, if I could say one more word, I thank the Senator from Iowa. He has my pledge to continue to work with him on whatever questions he has.

Mr. President, I want to just make one point. I am going to make a more lengthy presentation about the role GEORGE MITCHELL, our majority leader, played here during his career in the Senate and particularly majority leader.

I think it ought to be noted on at least the closing part of this session. We will come back in a few days in November on the trade bill, and I will make my lengthy remarks then. But Senator MITCHELL cares about fairness and justice.

Just a moment ago this nomination was about to go through. He favored the nomination. Senator GRASSLEY and I were having a conversation. He came over to alert Senator GRASSLEY to make sure it did not go through without his knowing about it.

That is the kind of a majority leader we have. That is the reason he has the reputation for fairness, and I think we ought to all note that.

The other thing I want to note, in the closing moments of this session, is that the majority leader could have pulled the plug on all three of these nominations. Everyone knows people are ready to get out of town. He cares about fairness to the individuals involved. He cared enough to schedule all three of these and to make sure that they were dealt with one way or the other by the U.S. Senate.

So GEORGE MITCHELL has many attributes, but I think in these closing moments we ought to note that kind of leadership, and it will be sorely missed. He will be very difficult to replace, and we all know that.

So I thank the majority leader. I thank the Senator from Iowa. And I thank my colleague from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I want to express my appreciation to the able Senator from Iowa and the fair manner in which he has handled this matter. It was a delicate matter, and I am very pleased it has been handled as it has been done in a satisfactory manner.

These officers now will be approved and other steps will be taken to improve the process here.

And I express my appreciation to the able chairman of the Armed Services Committee too for his part in helping to resolve this delicate situation. I think it has been handled in a very fine manner.

The PRESIDING OFFICER. Is there further debate on the nomination?

Mr. GRASSLEY. Mr. President, I would like to start debating the nomination, but if there are people who wanted to speak, I would give deference to them if they want to get out of town.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President I have a statement, if the Senator would yield to me.

Mr. GRASSLEY. I yield to the Senator.

U.S. ATTORNEY GEORGE L. PHILLIPS

Mr. COCHRAN. Mr. President, George Phillips, the U.S. attorney for the Southern District of Mississippi, is the senior U.S. attorney in the Nation. When he steps down as U.S. attorney, he will have served longer in that office

than anyone else who is now a U.S. attorney.

He was named acting U.S. attorney in June 1980, and received his appointment by President Reagan on my recommendation on October 8, 1981. He has served with great distinction, and I congratulate him on his outstanding record of service.

Mr. Phillips was born in Fulton, MS, in 1949. He graduated with honors in 1971 from the University of Southern Mississippi. After earning a law degree from the University of Mississippi School of Law in 1973, he practiced law in Hattiesburg, MS. He was twice elected Forrest County prosecuting attorney.

George Phillips has been particularly effective in forging cooperation among Federal, State, and local law enforcement agencies.

The Blue Lightning Task Force, which has been very successful in bringing big time drug smuggling to justice is evidence of his leadership efforts to coordinate law enforcement along the Gulf Coast.

During his career, George Phillips has won the respect and appreciation of law enforcement officials and the general public for his conscientious and effective prosecutions. He has received many special awards, including the U.S. Attorney General's Award for Excellence in Law Enforcement Cooperation, and the Man of the Year Award presented by the University of Southern Mississippi's Criminal Justice Association. He has also been cited for special commendation by the Mississippi Chiefs of Police and the Mississippi Sheriffs Association.

He is one of only two U.S. attorneys to have served two terms on the U.S. Attorney General's Advisory Committee, and he has been chairman of the Investigative Agencies Subcommittee on this advisory panel. He is especially proud to have been elected recently as president of the Mississippi Quarter Horse Association.

As further evidence of the excellent reputation he has earned, I ask unanimous consent to include in the RECORD an editorial dated August 31, 1994, printed in the Jackson, MS, Clarion Ledger, entitled "George Phillips: Leaves Legacy of Tough Prosecutions."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GEORGE PHILLIPS: LEAVES LEGACY OF TOUGH PROSECUTIONS

A new candidate for U.S. Attorney for the Southern District has been selected, with Jackson lawyer Brad Pigott getting the nod. Pigott is a good candidate.

But, he will have some big shoes to fill following the current officeholder, U.S. Attorney George Phillips.

Phillips, who has served in the post since 1980, leaves a legacy of tough prosecutions, from unflinchingly prosecuting drug lords to nabbing heavy-weight politicians.

At times, his drug lord prosecutions were so tense that federal agents had to be stationed with machine guns atop the federal courthouse.

But, his most sterling success must be the record arising from the FBI's "Operation Pretense" probe that led to charges against 57 county supervisors in 25 counties.

The result of those investigations, in which informants posed as equipment salesmen to catch local county supervisors accepting kickbacks, was to usher in the unit system of government in about half of Mississippi's counties.

Phillips put the fear of the federal government in the "good ol' boy" power structure in Mississippi.

Perhaps the most sensational case under Phillips' watch was the extortion conviction of former State Sen. Tommy Brooks of Carthage.

The powerful Senate president pro tem was caught red-handed by federal agents accepting $15,000 in a brown paper bag as part of a $50,000 influence-peddling scheme involving horse racing proposals for Mississippi.

The late Senator was convicted in 1985 in a trial that exposed the underbelly of Mississippi politics.

If confirmed by the Senate, Pigott has some large shoes to fill, indeed. The U.S. attorney's job, as Phillips has defined it, requires someone of unflinching belief in justice who refuses to be intimidated by the most powerful drug lords or most influential politicians, someone who will pursue white-collar criminals as zealously as the most odious of the common criminal element.

Phillips can leave the U.S. attorney's office with pride—and with the law-abiding public's heartfelt appreciation.

Mr. NICKLES. Mr. President, will the Senator from Iowa yield me 4 minutes?

Mr. GRASSLEY. I yield, without losing my right to the floor, to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

SENATOR DAVID BOREN

Mr. NICKLES. Mr. President, seldom do Members of opposite political parties work better together than the senior Senator from Oklahoma and myself. It is in the tradition of this enviable working relationship with DAVID BOREN that I rise to pay tribute to my colleague as he leaves this body to become the president of the University of Oklahoma.

Mr. President, this occasion comes with mixed emotions for me. On the one hand, I am pleased to have this opportunity to express my sincere appreciation for all the things Senator BOREN has done for his Nation, his State and for me, personally. But I must also tell you that I do not look forward to when DAVID BOREN leaves this floor for the last time as a Member of the U.S. Senate.

Senator BOREN's splendid record as a U.S. Senator for 16 years was the product of many years of careful preparation. He graduated summa cum laude from Yale, was selected a Rhodes scholar and graduated from Oxford with honors. DAVID took his law degree from the University of Oklahoma to which he now returns and where he was class president of the College of Law.

Senator BOREN later taught political science at Oklahoma Baptist University and served as an officer in the Oklahoma National Guard.

DAVID began a political career in many ways unmatched in the history of Oklahoma when he was elected to the Oklahoma House of Representatives where he served for 8 years, running unopposed for his last three terms. The next step up the political ladder was the Oklahoma Governor's mansion, where he served as the Nation's youngest Governor. While Oklahoma's Governor, DAVID began building his reputation as a reformer, a reputation that continued to grow after his election to this body in 1978.

Mr. President, at a time when many public officials, especially Members of Congress, are not held in high regard by the public, Senator BOREN stands out as a model of what a public servant should be. His performance in a number of key roles has been exemplary.

Even though we have not seen eye to eye on specifics, DAVID has led the fight to reform the way Federal political campaigns are financed. And, complimenting that effort, he served as chairman of the Joint Committee on the Organization of Congress, whose charge was conducting a comprehensive study of all congressional operations in order to make Congress more efficient and responsive.

Senator BOREN's devotion to our democratic process was shaped, in large part, by his father, Lyle Boren. My colleague recalls from time to time the positive influence his father had on him. DAVID lives by the principle that all people are created equal and has the wisdom to know that no person is better than, or above, another. He does not divide people. He brings them together. It is perhaps this trait, more than any other, that defines DAVID BOREN.

Mr. President, DAVID BOREN's father, himself a Member of Congress, was no stranger to the political process. DAVID inherited and heightened his father's unique blend of personal integrity and political acumen.

DAVID's tenure as the longest serving chairman of the Senate Select Committee on Intelligence was marked by his emphasis on bipartisan cooperation in foreign policy.

DAVID can also take great pride in his creation of the Oklahoma Foundation for Excellence which gives financial awards to outstanding educators, recognizes Oklahoma's top high school seniors, and assists communities throughout the State in their efforts to form foundations to support their local public schools.

Mr. President, throughout his career, Senator BOREN has not been intimidated in taking unpopular stands on high profile public issues. And, he has been ready to pay the political price that goes with taking a leadership role on those issues.

Although Senator BOREN and I belong to different political parties, I am proud of the fact that we have always worked together very well, perhaps because there are many more things we agree on than on which we differ. I am proud that, despite the efforts of those who would like to drive a wedge between us, we have always worked together closely and effectively and never allowed partisanship to hamper our work.

I will always remember our joint efforts to push through a realistic national energy program. That battle is not yet over, and the bipartisan nature of our proposal gives it added strength.

And when we found ourselves on opposite sides of the fence on an issue, there was always respect for the other's position. I recall the debate on the Senate floor on certain provisions of his campaign reform bill with which I strenuously disagreed. We debated the issue at some length but never with anything but full respect for the other's position.

Mr. President, I earlier made mention of DAVID BOREN's unmatched record as a political candidate. We all wish to be remembered for what we accomplish legislatively, but I must believe there is some correlation between DAVID BOREN's enormous popularity with Oklahoma voters and what he has been able to do legislatively for his State and his Nation. In 1990, when DAVID was re-elected for a third term, he piled up 83.4 percent of the vote, and carried all but 2 of the State's 2,354 precincts. That percentage was higher than any other Senate candidate up for reelection and a performance which only we, his Senate colleagues, can properly appreciate.

Mr. President, I know that you join me and all of our colleagues in our admiration and sincere appreciation for the outstanding work that Senator BOREN has contributed in his 16 years as a Member of the U.S. Senate. We wish him Godspeed and good luck in meeting the challenges and opportunities that face him in his new role as President of the University of Oklahoma.

Mr. President, I thank my colleague from Iowa for yielding to me.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is seeking the floor.

Mr. KEMPTHORNE. Mr. President, I ask if my colleague would yield to me?

Mr. GRASSLEY. Mr. President, I yield, without losing my right to the floor, to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Thank you, Mr. President, and I thank the Senator from Iowa for his courtesy.

UNFUNDED MANDATES

Mr. KEMPTHORNE. Mr. President, it seems very clear that S. 993, the bill to stop unfunded Federal mandates, will not see further action in this body, as we know the House has adjourned.

That piece of legislation, which had 67 Senators that cosponsored it, is true reform that truly will help our partners in State and local government. It had bipartisan support, strong support in this body and in the House, as well as tremendous support from the mayors, the county commissioners, the Governors, the city managers, the school board administrators, throughout the United States. It literally has advocates in every community in America that want this legislation passed.

We will be back next year. We will start early with legislation that will accomplish this, to stop these unfunded Federal mandates, and I know next session we will be successful.

I would like to specifically, Mr. President, acknowledge the organizations that really played a key role in bringing us this far in trying to accomplish the stopping of unfunded Federal mandates:

The National Governors Association, the U.S. Conference of Mayors, the National Association of Counties, the National League of Cities, the National Conference of State Legislatures, the ICMA—which is the city managers—the National School Boards Association, and the Council of State Governments.

Also I wish to thank a true partner in this body who has helped us so much, and that is Senator John GLENN, the chairman of the Governmental Affairs Committee; and the ranking member, Senator Bill ROTH, both of whom have helped us so much in getting this far.

On the House side: Congressman Rob Portman, Congressman Bill Clinger, who helped so much, Congressman John Conyers, and Congressman Edolphus Towns, who all, in a bipartisan effort, helped forge together the pending bill in the House.

I would like to also acknowledge the support from the administration.

I think that we are laying the groundwork to see finally an end to these unfunded Federal mandates.

I want to thank my colleagues on this side of the aisle who did clear the deck. When we said that we wanted to go forward with a clean bill without amendments, Republicans were willing to do that. Unfortunately, we saw that other amendments were attached, and that was unfortunate.

But, again, we can feel very good that we have brought this issue forward.

October 24, throughout the United States, will be the National Unfunded Mandates Week, when the mayors, the Governors, the county commissioners, and the school board administrators again talk to the people of America about the fact that we have to stop these unfunded Federal mandates and stop these hidden Federal taxes.

Again, I look forward to the next session, when we will be back and we will be successful in correcting this problem. It is time that we end this encroachment of our 10th amendment rights. I think that this legislation will accomplish that.

So, again, Mr. President, I thank you, and I want to thank the Senator from Iowa again for his courtesy in allowing me to make this statement.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

NOMINATION OF COL. CLAUDE M. BOLTON, JR., TO BE BRIGADIER GENERAL

The Senate continued with the consideration of the nomination.

Mr. GRASSLEY. Mr. President, I laid out my case on the Bolton nomination. And, of course, that is only relative in the sense that it is the issues surrounding the mismanagement of the advanced cruise missile program. I have done this on seven different occasions over the past 18 months.

This is a story about misuse of taxpayers' money and mismanagement.

Colonel Bolton was nominated last year by the President for advancement to the rank of brigadier general in the regular Air Force. The Bolton nomination was recently approved by the Armed Services Committee.

Over the past year, I have expressed several reservations, and serious reservations, about the nomination. My reservations about Colonel Bolton's promotion result from the way he managed the advanced cruise missile and the ACM Program.

Colonel Bolton was ACM Program Manager from September 1, 1989, to September 20, 1992. He was at the wheel when many fateful decisions were taken. Those decisions are the source of my concern.

I have spoken on the floor of the Senate on at least seven different occasions: On April 30, 1993; May 28, 1993; July 22, 1993; July 23, 1993; July 26, 1993; and July 29, 1993.

I will not give references, but there are references that will be in the RECORD for today for all of those speeches if anybody is interested in the background on this.

Eventually, the last time I spoke on this issue was June 14 this year.

I believe I am able to support each concern with adequate documentation. The audit trail of Colonel Bolton's management of the Advanced Cruise Missile Program is a mile long, and it is all in the CONGRESSIONAL RECORD. I have placed all the pertinent documents in the CONGRESSIONAL RECORD.

I believe my concerns about Colonel Bolton's promotion rest on solid ground. My concerns flow directly from information presented in records prepared by the independent inspector general at the Department of Defense

and also by the General Accounting Office.

The inspector general's assessment is buttressed by much damaging evidence. The Armed Services Committee gave the ACM Program a thumbs down for poor performance and mismanagement. The committee's assessment is contained in Senate Report No. 102-357, pages 55 and 57. That report is dated July 23, 1992.

The conference committee on the fiscal year 1993 defense authorization bill also gave the ACM Program thumbs down for poor performance and management. That assessment is presented in House Report No. 102-966, on page 538, dated October 1, 1992.

If I were a teacher and had to evaluate Colonel Bolton's ACM management skills based on these reports alone, I would have to give him a D-minus or F. While there are still some loose ends, some unanswered questions hanging, I feel, based upon all the evidence, the information, that the Senate should not have had to consider this nomination.

I have two main reasons for arriving at that conclusion. First, I believe the ACM plan was poorly managed under Colonel Bolton's leadership. Second, I believe that while Colonel Bolton was in charge, money was obligated and expended to buy ACM's in ways that were inconsistent with the laws of the land.

I would now like to review the facts bearing on that nomination and his management of the program. The facts I am about to discuss were derived principally from a report prepared by the DOD inspector general entitled, "Missile Procurement Appropriations, Air Force," Audit Report No. 93-053, dated February 12, 1993.

I ask unanimous consent to have pages 21 through 24 printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

AUDIT REPORT OF THE INSPECTOR GENERAL—MISSILE PROCUREMENT APPROPRIATIONS, AIR FORCE

B. Reprocurement of the Advanced Cruise Missile

To avoid declaring a violation of the Antideficiency Act, Air Force officials terminated contracts for the Advanced Cruise Missile (ACM) and initiated reprocurement actions the following day using current year funds. They did this because insufficient funds were available in the FYs 1987 and 1988 MPAAFs. Because of their Air Force's actions, the Government may have to assume an additional $24 million to $49 million in contractor liabilities. Furthermore, the Air Force's actions did not prevent a violation of the Antideficiency Act.

DISCUSSION OF DETAILS

Background

The Air Force was short of funds for the FYs 1987 and 1988 ACM contracts. These shortages resulted partly from problems in missile production that required engineering changes. Only $24.2 million remained in the FY 1987 MPAAF, and $31.1 million in the FY 1988 MPAAF, to cover unpaid cost overruns. Therefore, on March 25, 1992, the Secretary of the Air Force approved a plan to terminate the ACM procurements at 520 missiles and finance the $121 million in cost overruns with FY 1992 funds. On March 31, 1992, the DoD Comptroller denied the Air Force's request to use FY 1992 funds to cover cost overruns. The Air Force then chose another option, discussed below, to pay these costs.

Air Force ACM Procurement Actions

Three options considered. In July 1991, Air Force program officials determined that the cost of the FYs 1987 and 1988 ACM contracts would exceed budgeted targets and would approach or exceed ceiling costs. They also learned that the Air Force's FYs 1987 and 1988 MPAAFs did not contain enough funds to cover these adjustments. Air Staff officials were aware of the shortage, which was reported in the Defense Acquisition Executive Summary for August 1991 but was not resolved. Air Force officials considered three options:

To declare an Antideficiency Act violation in the MPAAF, notify Congress of the MPAAF shortages, and either request a supplemental appropriation or include the ACM requirements in the next budget submission;

To initiate a "stop work order" before depleting budgeted funds, and reprogram funds from other projects or fiscal years to pay for obligations on the ACM; or

To partially terminate the FYs 1987 and 1988 ACM contracts, reprocure the unexecuted portions with FY 1992 funds, and not report an Antideficiency Act violation.

The third option was selected, and in March 1992, the Assistant Secretary of the Air Force (Financial Management and Comptroller), with the concurrence of the Assistant Secretary of the Air Force (Acquisition), approved the use of FY 1992 funds to meet requirements that could amount to $111.5 million from FY 1987 and $54.7 million from FY 1988. The Air Force then partially terminated the ACM contracts and used FY 1992 funds to reprocure the remainder of the ACM requirements. Senior Air Force officials gave the following reasons for their actions.

Chapter 25 of the "DoD Accounting Manual" required budgeting to target when funding major procurements.

No requirement existed to record upward adjustments as obligations until they were incurred.

It was legal to cancel a contract one day, create a new contract the next day, and fund FYs 1987 and 1988 requirements with FY 1992 dollars, although the prior year contracts had been terminated to avoid Antideficiency Act violations in prior year accounts.

The Antideficiency Act had not been violated, since contractual obligations had not been recorded or executed.

Their actions prevented additional costs from being incurred on the FYs 1987 and 1988 contracts, for which expired year funds were not available; minimized the costs of terminating contracts; and sustained current production to meet operational requirements.

In April 1992, the Air Force informed Congress of the decision to terminate and reprocure the FYs 1987 and 1988 requirements for the ACM, and provided Congress with a closeout plan explaining the actions taken (see Appendix C).

Potential for increased liability. In our opinion, the Air Force's procurement actions were improper because the cost growth on the ACM contract did not result from out-of-scope changes or new work. The costs of within-scope changes and cost growth not related to new work were properly chargeable only to FYs 1987 and 1988 funds. Because of the new ACM contracts, the Air Force may have to pay an additional $49 million in contract termination costs and liabilities that would have been absorbed by the contractor under the original contracts. The following table shows the additional reprocurement costs that the Air Force may have to pay.

ACM REPROCUREMENT LIABILITY

[Dollars in millions]

Liability	Fiscal year—	
	1987	1988
Target-to-ceiling cost	$20.0	$24.0
Termination cost	5.0	0
Total liabilities	25.0	24.0

Funding deficiencies. The Air Force's use of FY 1992 funds to fund obligations and obligational adjustments properly chargeable to the MPAAFs for FYs 1987 and 1988, and its delay in recording the obligations, did not relieve the Air Force of its responsibility to investigate and report violations of the Antideficiency Act. In August 1991, Air Force officials recognized that the ACM program had funding problems; however, they said that they did not ask Congress for a supplemental appropriation because the June 13, 1991, guidance from the DoD Comptroller required the use of current year funds in such cases.

Disclosure to Congress. The Air Force also did not specifically disclose to Congress the increased costs that may have been incurred by terminating and reprocuring ACM requirements. In addition to incurring termination costs and penalties, the Government will have to pay the contractor's share (30 percent) of the liability for cost growth over target. Although program officials said that the contractor would not be allowed to use the new contract to recoup previous losses, the increased costs are estimated at $24 million to $49 million. Officials said that the contractor will absorb $25 million in FY 1987 liabilities; however, they expect at least a $24 million loss to the Government. Based on the closeout plan that the Air Force provided to Congress (Appendix C), we computed that the Government's liabilities resulting from contract termination could total $79.7 million. However, neither this figure nor the estimated liability of $24 million to $49 million was included in the plan. The full impact of the Air Force's actions cannot be determined until the new letter contracts are definitized. After contracts were terminated, Congress rescinded the FY 1992 MPAAF funds that the Air Force intended to use for the reprocurement. As a result, the Air Force has incurred additional costs by entering into a new procurement, and must use another source of funds for the new ACM contracts.

Conclusion

The Air Force breached its fiduciary responsibility by incurring additional costs in an attempt to avoid reporting a violation of the Antideficiency Act. The decision of the Assistant Secretary of the Air Force (Financial Management and Comptroller) to finance a plan that would terminate parts of the FYs 1987 and 1988 ACM contracts and reprocure with new contracts was fiscally imprudent. We believe that the termination for convenience and the reprocurement will cost an additional $24 million to $49 million and do not relieve the Air Force of its responsibility to report a violation of the Antideficiency Act. Since Congress rescinded the FY 1992 funds that the Air Force planned

to use for this reprocurement, the Air Force must find a legally available source of funds for the new contracts. Termination and reprocurement costs must also be charged to a supplemental appropriation unless sufficient funds remain in the original appropriations to cover these costs, because these costs are not chargeable to current appropriation accounts. The full impact of the Air Force's actions will not be known until the new contracts are definitized and Congress determines the number of missiles to be purchased. The Air Force tried unsuccessfully to use FY 1992 funds to pay for cost increases in the ACM because FYs 1987 and 1988 funds were insufficient. The Antideficiency Act was violated when the Air Force recognized that the cost to complete the ACM had exceeded amounts available for obligations, but permitted work to continue. Deficiencies in the FYs 1987 and 1988 MPAAFs are unresolved, the Antideficiency Act has been violated, and the Air Force has incurred additional costs by not reporting Antideficiency Act violations and requesting Congressional relief.

RECOMMENDATIONS FOR CORRECTIVE ACTION

See Finding A for our recommendations to correct problems with the procurement and funding of the ACM. Actions to correct the problems noted in this finding will be the same as actions for Finding A.

Mr. GRASSLEY. The problem Colonel Bolton had to wrestle with was a burgeoning cost overrun on two fixed-price contracts to procure 251 ACM missiles. These contracts covered the fiscal years 1987 and 1988 buyings in ACM missiles. General Dynamics' Convair Division was the contractor. These contracts were signed on September 25, 1989, and January 30, 1990. At the time, the Air Force low-balled it and budgeted it to the target price.

By budgeting to the target price, the Air Force left itself no cushion. Yet the Government was obligated by the ACM contracts to cover 70 percent of all costs between target and ceiling. The troubled contracts were for fiscal years 1987 and 1988. Technical problems with the missile itself led to delays. Delays in turn generated a need for more money. The GAO claims the Air Force knew about the funding shortfalls even before the contracts were signed, but was planning to tap into M accounts to bail out the program down the road.

As the Presiding Officer and I know, the days of the M accounts, those were the real old days. They could cover cost overruns with the M accounts, and they could do it out of sight, beyond even the purview of Congress. The doors to that magic vault were slammed shut by law changes before that happened.

The inspector general's reports provides two very important facts. It tells us, first, in July 1991, program officials knew that the costs to complete the fiscal years 1987 and 1988 contracts would exceed the target price. And that target price is the amount authorized and appropriated. Second, the amounts remaining for the fiscal years 1987 and 1988 missile procurement accounts were insufficient to cover cost overruns.

That piece of information tells us that in June 1991, ACM program officials knew that the Government's obligations exceeded the amounts remaining in the fiscal years 1987 and 1988 missile procurement appropriations accounts. This is a very serious problem, indeed. It is a very serious problem. If ACM program officials were aware of the problem, then I think it is reasonable to assume that the program manager, Colonel Bolton, knew about it as well. Money is the lifeblood of any program, and as the supply starts to get low, surely the program manager would be one of the first to know. As program manager, he had to know how much money he had and what he owed. He must have known that he was at least $100 million short, and the shortage was increasing each day.

In late October 1991, a request for more money began working its way up through the chain of command. The amount needed to cover the cost overrun totaled $98.6 million; $71.5 million for fiscal year 1987, $27.1 million for fiscal year 1988. En route, this request even expanded to $112.2 million. The request went to Air Force headquarters in Washington, DC, and eventually ended up on the desk of the appropriations account manager.

It did not take the account manager long to figure out that these accounts were overdrawn. Obligations exceeded available appropriations. The official word went back to the field on November 26, 1991, entitled, "Funding of this magnitude is not presently available." That is what they said. There is just no money. And the official report said so.

So what does it really mean? It means there is not enough money in the bank to cover Colonel Bolton's bills. Colonel Bolton was now in hot water. He had to pay money but no money to pay it with. He had to pay the bills—no money. His program was overobligated. He had a potential Anti-Deficiency Act violation.

Who had knowledge and awareness of this potential Anti-Deficiency Act violation within Air Force headquarters? I have documents to prove that a Mr. Michael B. Donley did. He was Assistant Secretary of Air Force for Financial Management and Comptroller at the time. I have documents to prove that a Mr. John W. Beach did. He is the principal Deputy Assistant Secretary of Air Force for Financial Management. I have documents to prove that several others knew it as well. The inspector general said the law had been violated at this point. The inspector general concluded that the Anti-Deficiency Act was violated when the Air Force recognized that the costs to complete the ACM had exceeded amounts available for obligations but permitted work to continue.

At this point let me say, earlier today the distinguished chairman of the Armed Services Committee said that his committee had looked into it and come to the conclusion that the Anti-Deficiency Act had not been violated. But we still have the independent inspector general concluding that the Anti-Deficiency Act was violated. And that is why we put those inspectors general there, to be independent of the political power in Washington, to make an independent judgment if there is a waste or illegal use of the taxpayers' money.

The independent inspector general concluded in this case that the Anti-Deficiency Act was violated.

Funding in fiscal years 1987 and 1988 missile procurement accounts had been depleted, in other words. When that happened, the inspector general said the ACM program was in violation of the act.

Under the law, Colonel Bolton's options were severely limited at that point. Once he realized that outstanding obligations exceeded available appropriations, he was staring down the throat of a potential violation of the Anti-Deficiency Act, and that is section 1341, title 31 of the United States Code.

First, he should have issued a stop order, but he did not. Next, he was required by law, section 1351, title 31, to investigate and report potential violations of the law. As a responsible head of an organizational unit involved, that is what Bolton was supposed to have done.

He was supposed to investigate the circumstances surrounding the violation and to do it immediately. He was supposed to report the violations up through official channels, describing the circumstances of the violation and naming those responsible for the violation. Those orders are spelled out in DOD Directive 7200.1, the directive that controls such matters.

A violation of the Anti-Deficiency Act, as we know, is a very serious matter. It means that congressional funding limits have been exceeded. Violations carry criminal penalties. It is a felony. Those who knowingly or willfully violate the law can be sent to prison or fined. Few have been prosecuted for it, but many a fine career has been ruined by Anti-Deficiency Act violations.

Colonel Bolton was required by law to report and investigate a potential violation of the Anti-Deficiency Act. Others above him who were further up the chain of command also had a responsibility to do the same. They are supposed to report the violation to the President and report it to Congress, along with all the relevant facts and a statement of actions taken. That is what the law says.

They also had a responsibility to report the problem to Congress and to request a deficiency appropriation to complete the program in an orderly way.

When you run out of money, as Colonel Bolton did, then you are supposed to come to the Congress—maybe hat in hand, but what difference does it make; that is what the law requires—and to request legislative relief. That is the way to do it if you are going to follow the law. Unfortunately, none of these things were done. Instead, the Air Force chose to pursue a devious, a destructive, and a wasteful plan to avoid reporting a violation of law.

So this is the infamous advanced cruise missile—ACM—reprocurement scheme. I think the reprocurement scheme was an attempt to hide or to conceal a violation of law. I hope that the ACM procurement action is not a prototype approach for covering cost overruns for the post M account era.

The Presiding Officer is going to want to observe this. We did away with the M accounts. Are they now having another scheme to set up some other way of covering these violations of law and these cost overruns without having to come to Congress? I hope not. But I think we ought to be aware of the possibility that that could happen.

Let me say, there has been nobody who has been a better watchdog of the Pentagon than the distinguished Senator from Arkansas, who is now presiding over this body.

Clearly, the scheme plan was designed to use contracts to overturn and circumvent the law and to generate cash outside the law. The plan was approved by Mr. Michael B. Donley, the Air Force's chief financial officer and comptroller, and the reprocurement plan was disapproved, however, by the DOD comptroller, Mr. Sean O'Keefe. Mr. O'Keefe disapproved the plan because it was illegal to use current-year appropriations to cover cost overruns on prior-year contracts. On March 31, 1992, Mr. O'Keefe specifically ordered Mr. Donley not to carry out the plan.

I ask unanimous consent to print Mr. O'Keefe's order in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

COMPTROLLER OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, March 31, 1992.

Memorandum for the Assistant Secretary of the Air Force (Financial Management and Comptroller).

Subject: Advanced Cruise Missile Program Funding.

It is evident from your memorandum of March 27, 1992, that you have not been kept informed of the ongoing staff level discussions relative to the appropriate use of prior and current year funds. In these discussions it has been clear that prior year contract adjustments to cover target to ceiling cost adjustments are chargeable only to the fiscal year appropriation of the contract.

Your staff has been asked, on several occasions, to develop a paper supporting the position that the FY 1992 ACM program funds could be appropriately charged to cover the cost of the prior year programs. Until such time as a legal determination, based on the facts peculiar to this program, is approved by Counsel, you should not proceed to charge current year funds as proposed.

SEAN O'KEEFE.

Mr. GRASSLEY. Mr. President, the Air Force ignored the DOD comptroller's order. Can you believe that? The DOD said, "Don't pay for it that way." The Air Force ignored it and went ahead with the plan anyway.

In May 1992, the Air Force began terminating contracts, and they did this to generate cash to pay the contractor for the cost overruns for the fiscal years 1987 and 1988.

The balance in the missile procurement appropriations account on March 31, 1992, on the eve of the ACM reprocurement action, was minus $118.9 million for fiscal year 1987, and minus $183 million for fiscal year 1988.

Mr. President, it is hard to pay bills from a bank account that has such negative balances. Those figures are drawn from the inspector general's audit report. The Air Force's own figures for the same date, March 31, 1992, shows that the ACM contract was in trouble. The ACM contract fund status report shows that contract work authorized totaled $616,218,000, while the funding authorized totaled only $569,869,000. So comparing those figures, the contract was overobligated.

No matter how you slice it, the ACM program was in violation of the Anti-Deficiency Act in March 1992. The Air Force had bills to pay but no money to pay them. Obligations exceeded available appropriations. That should be a show stopper for most program managers anyplace else in operations in the Defense Department. But it was not, and it probably will not be in the future.

The Air Force terminated the fiscal year 1990, fiscal year 1991, and fiscal year 1992 contracts to pay back bills. The fiscal year 1990 through 1992 missiles were sacrificed to save the fiscal year 1987 and 1988 missiles, and perhaps Colonel Bolton's career and the careers of others higher up.

Since the law forbids the use of fiscal years 1990 to 1992 money to cover cost overruns for fiscal years 1987 and 1988, the Air Force had to devise a clever money laundering scheme, and they did. It got blessed all the way up the line, even by the Secretary at the time, Mr. Rice.

First, the Air Force terminated fiscal years 1988 and 1987 contracts one day for the convenience of the Government and then immediately, within a few days, went right out and reawarded new contracts to the same company.

That is called reprocurement. I call it simply a laundry operation. It is a way of trying to make old work look like new work. You douse the old work with a little perfume and, presto, it smells and looks just like new work. It is all white, it is all starched, it is like sending your dirty shirts to the blanchery. The Air Force even gave the contractor $587,000 to relabel the missiles. This was another futile attempt to make the work and money match up. But even half a million dollars' worth of new labels did not quite do it.

Mr. President, I ask unanimous consent to print an Air Force information paper on the ACM relabeling operation in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

[Memorandum]

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE ASSISTANT SECRETARY,
August 11, 1993.

Mr. CHARLIE MURPHY,
Senator Grassley's Office.

CHARLIE, Attached our response to your question on the Re-labeling. I should have answers to your other questions next week. Call if you need more information.

GARY M. RUSNAK,
Assistant for Congressional Matters, Office of Budget & Appropriations Liaison.

DEPARTMENT OF DEFENSE INFORMATION PAPER

AUGUST 11, 1993.

Service/Agency: Department of the Air Force.

Appropriation Account: Procurement, AF.

Budget Activity: 0101120F.

Subject: ACM Program Status Report.

1. Question; Why did the Air Force spend $600,000 to "re-label" 120 FY 1987 and FY 1988 ACM missiles?

2. Response: The Air Force did not spend $600,000 to "re-label" 120 FY87 and 1988 ACM missiles. The Air Force did spend $586,702 for a variety of tasks that the contractor would not have performed had the original contracts continued without termination. These tasks were captured under the activity entitled "Administrative Restructure Costs." The effort to change tail number documentation is just one example of the type of tasks included in "Administrative Restructure Costs" and was never intended to be interpreted as the only task involved. Since the actual nameplates were not yet installed on any of the missiles involved when the Air Force bill was paid, the Government did pay for any hardware changes. The Air Force paid approximately 2.8% of the total settled amount (or approximately $16,500) to change the nameplate documentation for the tail numbers. The tasks in the settled amount of $586,702 not only included those required to change the tail number documents, but the following efforts as well:

a. Establish accounts for the new FY92 contract and allocate costs to the appropriate contracts.

b. Sort all tasks on the FY87 and FY88 contracts into those that are completed and those requiring completion and the subsequent development of contract line items.

c. Prepare proposals, fact, find, and negotiate the entire restructure of the program. This activity included writing and negotiating special contract provisions for an extremely complicated restructure which required many resources and stretched over a twelve month period. This activity also included the Administrative Restructure proposal and negotiations.

d. Develop the FY90/91 residual material lists.

e. Change the Government Furnished Property (GFP) Documents and system for accounting for GFP.

f. Change the configuration status accounting system and other documentation including Air Force technical orders and all other contract data requirements to reflect the changed tail numbers.

3. Please provide a line-by-line comparison of the information on the new labels versus the information on the original labels. Were the serial numbers changed? Were the contract numbers changed? Were the fiscal years changed? If changed, what information was placed on the new labels? Exactly how did the information on the labels change?

4. Response: The following table shows the old tail numbers/old contracts and new tail numbers/new contracts to which they were changed. The term "tail number" is synonymous with the term "serial number." The contract numbers were also changed along with the Fiscal Years as reflected in the table. The Fiscal Year is reflected in the first part of the tail/serial number.

TAIL NUMBERS

Contract number/Fiscal year				
F33657–88–C–0103 Fiscal year 87	F33657–88–C–0103 Fiscal year 88	F33657–89–C–0082 Fiscal year 90	F33657–89–C–0082 Fiscal year 91	F33657–91–C–0032 Fiscal year 92
87–0803				*92–13000*
87–0804				*92–13001*
87–0843				*92–13002*
87–0845				*92–13003*
87–0846				*92–13004*
87–0856				*92–13005*
87–0857				*92–13006*
87–0860				*92–13007*
87–0861				*92–13008*
87–0865				*92–13009*
87–0867				*92–13010*
thru 87–0952				thru 92–13095
	88–1362 thru 88–1376	*90–0061 thru 90–0075*		
	88–1377 thru 88–1385		*91–0180 thru 91–0188*	
	88–1386 thru 88–1408			*92–13097*
				thru 92–13119
	88–1423			*92–13096*

The numbers in italics are the new tail/serial numbers. The regular type numbers are the old tail/serial numbers.

MEMORANDUM

To: Major Gary Rusnak, Budget Liaison Office.

From: Charlie Murphy, Office of Senator Grassley.

Date: July 26, 1993.

Subj: ACM Reprocurement.

I have several questions regarding the ACM reprocurement scheme.

Why did the Air Force spend $600,000 to "re-label" 120 FY 1987 and 1988 ACM missiles?

Please provide a line-by-line comparison of the information on the new labels versus the information on the original labels. Were the serial numbers changed? Were the contract numbers changed? Were the fiscal years changed? If changed, what information was placed on the new labels. Exactly how did the information on the labels change.

A response is requested by August 9, 1993.

Mr. GRASSLEY. Thank you, Mr. President. The fact is, you can put a new label on an old missile, but it is still an old missile.

What was the job that had to be done? What was the work at hand? Why was the extra money needed? The answer is simple: Finish 144 incomplete fiscal years 1987 and 1988 missiles; fiscal years 1990 through 1992 dollars were used to finish those 144 missiles. This is a possible violation of sections 1301 and 1502, title 31, United States Code.

The net result of this illegal maneuvering was a loss of 60 missiles. Those 60 missiles were partially complete when their contracts were terminated to regenerate the cash. None of the terminated fiscal years 1990 through 1992 missiles were ever completed. Those 66 missiles were left for scrap on the factory floor. They remain in bonded storage at the Hughes plant in San Diego, CA.

The Air Force has tried to assure me that—and these are their words—"residual ACM materials are," in their words, "adequately controlled."

Control of residual material is not my concern. It is the very existence of the ACM residual material that bothers me and the cute laundering that went on to cover cost overruns of contracts for 1987 and 1988 and we got 60 missiles that are probably nothing but scrap on the floor there in San Diego.

Now, the Air Force will tell you these are spare parts. Let me tell you they have plenty of spare parts. They do not need any more spare parts. That is just an excuse.

The General Accounting Office recently examined all the contracts issued surrounding what I have just described here, this reprocurement scheme. The result of that work is laid out in a report entitled, "Strategic Missiles: Issues Regarding Advanced Cruise Missile Program Restructuring, NSIAD–94–145" dated May 1994. And that is recent. I have quoted some older documents, but this as recent as 4 months ago.

The General Accounting Office looked at this. Now, the General Accounting Office estimates that the stored material is worth $227 million but suggests that some portion of this material could be used for spare parts.

I do not buy that argument. It does not make sense. Those spare parts should be excess to requirements. The Air Force should have bought enough spare parts to support all operational ACM missiles. More spares are redundant and unnecessary. Having unneeded spares so no way to lessen waste and mismanagement in this ACM program. The excess spares are nothing more than an ACM missile that was never assembled and delivered—60 of them.

The Air Force paid General Dynamics top dollar for all-up missiles but got nothing of value. That is the bottom line, nothing. They threw the missiles on the scrap heap to conceal a very blatant violation of law. This is destructive, this is wasteful, and it amounts to lost military capability. At $5 million a shot—and that is the figure—that amounts to at least $300 million poured down the rathole, trashed. When termination cost and everything else is included, total losses on ACM contracts would easily approach $400 million or more.

My discussion to this point has been based mainly on the fine work done by the inspector general and the General Accounting Office.

I would like now to shift gears and examine the problems through the eyes of the Armed Services Committee. Its appraisal appears on pages 55 to 57 of report No. 102–352. The committee's appraisal is very honest, but it is also very damaging. The committee—and this is their word—is "distressed" by what happened in the ACM program.

The committee took a dim view of the ACM reprocurement scheme. While the committee never mentions Colonel Bolton by name, the mismanagement described in the committee's report clearly happened on Colonel Bolton's watch. The committee said, "By terminating the contracts for convenience, the Air Force both gave up its negotiated ceiling cost cap and jeopardized the warranties on practically completed ACM's."

The committee criticized the Air Force for doing this, and these are their words, "without prior consultation with the Congressional defense committees."

The Air Force should have come then, in other words, to Congress and should have asked for relief. That is what the antideficiency law requires. The Air Force should have submitted requests to cover these shortfalls. The money should have been reviewed by Congress. The money should have been appropriated by Congress if it was needed. You should not have had this

money laundering, canceling of contracts to cover cost overruns of 1987 and 1988 and then issue new contracts almost the next day. The committee had this to say:

Had new contracts been completed, the Air Force would have had to pay both more profit to the contractor than would have been provided under the original contracts and more than the ceiling amounts in the original contracts.

The words of the Armed Services report.

Well, we do not know exactly how all of this played out, but it sure does not sound very good. Here is some more from the committee report. The Armed Services Committee of the Senate said this:

The Air Force has dug itself into a deep hole on the ACM program . . . and the Committee does not intend to extricate the Air Force from its current predicament. . . . The Committee does not intend to solve this Air Force problem.

So I think it is very clear that the committee was angry about the way the Air Force was running the ACM program. The committee feared their program would "end in expensive and wasteful disarray." That is a quote.

Well, it seems like the committee fears came about. The same concerns were echoed in a conference report in the fiscal year 1993 defense authorization bill, House report 102–966, page 538. The conference committee gave the ACM a thumbs down appraisal. The conferees expressed frustration and serious concern over the possibility of repetitions of the "ACM fiasco."

Those words, "ACM fiasco" are in the House report. The committee feared that the Air Force had no plan to avoid such fiascoes other than to ask congressional defense committees for a bailout.

That is what the House report said—the conferees looked on the ACM program as a fiasco. That is kind of like saying it is a total failure. Those responsible for such mismanagement and waste must be identified and must be removed from office. They must be held accountable in some way.

So that is how I got to where I am on Colonel Bolton's nomination. Obviously, almost nobody in this body agrees. There are people here who know that the ACM program is wrong, but they do not see Bolton, as program manager, as the one who ought to have his head chopped off as a result of it.

That would not be so bad in and of itself, Mr. President, but somewhere in the management of this program, from program manager up the chain someplace, somebody ought to pay a price for this.

In a similar program I am going to talk about, the C–17 program, the program manager, a guy by the name of Butchko, his head was chopped off. He was removed from that position. But somehow when it comes to the ACM and Colonel Bolton, it is not his fault; it is somebody else's fault higher up.

OK with me. I do not care. But how are you ever going to get accountability of the taxpayers' dollars; how are you going to see that the law is followed; how are you going to make sure that the antideficiency law is not violated; and, if it is violated, somebody is going to be punished if there is not accountability?

It seems to me the title program manager makes you accountable. And, remember, as I said to Senator NUNN earlier—he said, well, Colonel Bolton reported this. He should be praised for reporting it.

But remember, he came on this job in 1989. We have a 1991 DOD IG report that said there is possible violation of the Antideficiency Act. That was on Colonel Bolton's watch. And that is by the independent DOD IG.

I think I have to take the judgment of an independent person whose job is to see that the taxpayers' money is spent wisely and honestly and legally and that that person is not subject to political pressure. And the IG's are set up to be independent. In other words, not subject to political pressure Colonel Bolton was program manager September 1989 through September 1992.

The inspector general's findings are unambiguous and conclusive. Under law, the inspector general is authorized to investigate and report violations of the law and to fix responsibility when necessary. I also believe that Colonel Bolton is responsible for the reprocurement plan and its wasteful aftermath. While the reprocurement plan was developed, approved and directed from Air Force headquarters, Colonel Bolton as program manager was responsible for carrying out that plan, and he did carry it out. That plan was destructive.

What is wrong with that is that the plan was destructive. It was wasteful and it was illegal.

For 50 years our society has not accepted the excuse of militaries anywhere in the world that carrying out orders and violating law is an excuse. Remember one of our principal adversaries this century. A lot of the people in the officer corps tried to avoid responsibility for the murder of a lot of innocent citizens in Europe during World War II because they were just carrying out orders.

It is the ethic within the military to not tolerate cheating, stealing, or put up with nobody that does the same. That has to be true of anybody who takes an oath to uphold the laws of their country, and our military people do. It seems to me that just because it was higher up, a program manager cannot allow the violation of law.

As I said before, if Colonel Bolton is not responsible as program manager, whereas Butchko was, on the C–17, then somebody is responsible. Because if you do not hold somebody responsible, how are you ever going to get any accountability in Government?

If it is as bad as has been referred to, that there is something wrong with the system, you cannot always be blaming the system because that is like blaming no one. You never have responsibility in that sort of environment.

I know that when it comes to procurement the Armed Services Committee of this body has taken a great deal of time over the last few years to get changes in law and changes in regulations and procedures to make sure that we get a better system. I compliment them on that. It does not matter how good the system is. If you do not hold people responsible and accountable when they do something wrong, particularly if they violate the Anti-Deficiency Act, how are you going to ever get accounting?

In view of the Air Force's challenge, the inspector general asked the General Accounting Office to resolve the conflict and to render a final opinion. The General Accounting Office's opinion is expected to be issued sometime this fall.

Mr. President, I want to bring this unresolved issue to the attention of my colleagues. I would hope that we would not have proceeded with the nomination of Colonel Bolton until all of these facts were in. The committee decided to.

The distinguished chairman of the committee has in a colloquy here on the floor of this body consented to writing to the Department of Defense, specifically including the independent DOD Inspector General to look at this whole program. The program itself has been looked at, but look at it from the standpoint of who is responsible. Somebody has to be responsible when you have $300 million worth of scrap in the Hughes warehouse in San Diego of uncompleted ACM missile.

CONCLUDING REMARKS ON THE NOMINATION OF COL. CLAUDE BOLTON, U.S. AIR FORCE, FOR PROMOTION TO BRIGADIER GENERAL

Mr. NUNN. Mr. President, I urge the Senate to support the nomination of Col. Claude Bolton, U.S. Air Force, for promotion to the grade of brigadier general.

Colonel Bolton is a Vietnam combat veteran, where he flew over 200 combat missions, including 40 missions over North Vietnam. Following his service in Vietnam, he served as a test pilot for the F–4, the F–111, and F–15 aircraft. More recently, he was the first program manager for Advanced Tactical Fighter Technologies Program, which evolved into the F–22. He then served as the program manager for the Advanced Cruise Missile Program. According to Deputy Secretary of Defense Deutch, Colonel Bolton "turned around a troubled program and produced technically sound missiles meeting the requirements of the Air Force."

Since March 1993, he has served as the commandant of the Defense Systems Management College. Deputy

Secretary Deutch has advised the committee that he has "had the opportunity to personally observe Colonel Bolton's performance over the last 18 months in his capacity as the commander of the Defense Systems Management College. His service in that capacity, as in his earlier assignment, has been outstanding."

Colonel Bolton was selected for promotion by a duly authorized selection board. He was nominated for promotion by the Senate. He deserves this promotion.

Senator GRASSLEY has spoken in detail about the funding problems for the advanced cruise missile. Our committee is well aware of those problems. What is important here, however, is that Colonel Bolton did not cause those problems, and he acted promptly to address them. He brought the problems to the attention of his superiors, and they designed a funding plan.

On September 30, 1994, Deputy Secretary Deutch provided the committee with his views on the issues concerning Colonel Bolton and the advanced cruise missile:

I have personally reviewed the issues that have been raised about his management of the ACM program as a result of a DOD Inspector General Report on Air Force missile procurement. The report, which did not allege any misconduct or other deficiency by Colonel Bolton, recommended that the Air Force review and report on violations of the Anti-Deficiency Act. The Air Force conducted the review, and determined that the actions taken to fund the program did not violate the Anti-Deficiency Act. The Department of Defense General Counsel and the DOD Comptroller both have concurred in this determination.

Secretary Deutch added:

It is important to note that the funding decisions at issue were not made by Colonel Bolton; rather, they were made by the Secretary of the Air Force, with the advice and concurrence of the senior leadership of the service. Colonel Bolton reasonably and properly relied on their decisions and direction in his implementation of the program.

In summary, Mr. President, Colonel Bolton is a combat veteran and an acquisition specialist whose record has been characterized by the leaders of the Department of Defense as outstanding. With respect to the ACM program, the Deputy Secretary has noted that there is "no basis * * * for concluding that there was any significant deficiency in Colonel Bolton's management of the program. On the contrary, * * * he acted with professionalism and integrity to identify problems and implement the decisions made by authorized superior officials."

Secretary Deutch concluded:

Colonel Bolton has served his Nation with skill and dignity. I am confident that he has much more to offer our Nation.* * *

Mr. President, whatever disagreements may exist between the IG and the Air Force on the funding of the advanced cruise missile, they involve decisions that were made above Colonel Bolton's level by the Secretary of the Air Force in the last administration. He has an outstanding record and he should be confirmed.

THE NOMINATION OF AIR FORCE LT. GEN. EDWARD P. BARRY, JR.

Mr. GRASSLEY. Mr. President, I would now like to give my reasons for opposing the pending nomination of Air Force Lt. Gen. Edward P. Barry, Jr.

General Barry is currently serving as the commander, Space and Missile Center, Air Force Material Command, Los Angeles Air Force Station, CA.

He applied for retirement on May 4, 1993.

His decision to retire came after he was disciplined by the Secretary of Defense for his involvement in a scheme to make illegal progress payment to McDonnell Douglas on the C–17 aircraft program.

On October 28, 1993, the President nominated General Barry for advancement on the retired list in the grade of lieutenant general, effective December 1, 1993.

Since the Senate did not act on his nomination, General Barry did not retire as planned.

And we will be acting on it this year before we adjourn now. But I want to state my opposition to the Barry nomination.

My opposition to the Barry nomination stems from his activities while program executive officer for tactical and airlift programs.

He occupied that position from February 1990, until July 1991.

During that period of time, he was responsible for program planning and execution of the advanced tactical fighter, F–15, F–16, T–1A, and C–17 aircraft programs.

His decisions on the C–17 aircraft are the primary source of my concern.

Once again, Mr. President, my objection to a nominee rests squarely on the work of the inspector general at the Department of Defense.

In January 1993, the inspector general concluded an indepth investigation into Air Force payments to McDonnell Douglas on C–17 contracts.

The results of that investigation are contained in a report entitled "Government Actions Concerning McDonnell Douglas Corporation Financial Condition During 1990."

The inspector general found that a group of five senior Air Force officials acted in concert to carry out a scheme—based on "false information and improper cost charging practices"—to make illegal progress payments to McDonnell Douglas.

Mr. President, in simple terms, this was a backdoor bailout operation to help McDonnell Douglas out of a financial tight spot.

The investigation focused on transactions that occurred between July 1, 1990, and December 31, 1990.

The inspector general recommended that disciplinary action be taken against five senior Air Force officials, including the C–17 program executive officer, Lieutenant General Barry.

The other four officials recommended for disciplinary action were as follows: former Deputy Chief of Staff for contracting at the Air Force Systems Command, Ms. Darleen A. Druyan; former C–17 system program director, Maj. Gen. Michael J. Butchko, Jr.; former deputy comptroller for the Air Force Systems Command, Brig. Gen. John M. Nauseef; and C–17 deputy director of contracting, Mr. A. Allen Hixenbaugh.

According to the inspector general, General Barry and his accomplices behaved in very dishonest and improper ways. They knowingly provided senior acquisition officials with incomplete, misleading, and even false information.

They used deception.

They "abused their position of responsibility and authority."

And worst of all, they used intimidation to force subordinates to acquiese in their illegal plan.

The inspector general concludes that their actions, taken together, "impaired established Government oversight and internal management control processes."

Their actions resulted in numerous violations of Federal statutory law and acquisition regulations.

Mr. President, this is not what the Senator from Iowa said they did.

This is what the inspector general at the Department of Defense said General Barry and his accomplices did.

Mr. President, this is a devastating report. It suggests a total disregard for the laws that govern the use of the taxpayers' money.

As the C–17 Program Executive Officer, General Barry was right in the middle of the scheme.

General Barry was in a critical acquisition management position.

His job was to supervise the work of the program manager, General Butchko—to review and approve his decisions.

One of his main responsibilities under DOD regulation 5000.1, was to "review and assess the significance of problems reported" by Butchko.

His main responsibility was to determine the level of risk associated with the problems identified by General Butchko.

No matter how you slice, General Barry was in a key position. He was up to his ears in this scheme.

Mr. President, last evening, the Senator from Georgia, the chairman of the committee, suggested that General Barry had made one small misstep.

I assume that the incident he mentioned is the one described on page 23 of the IG report.

Mr. President, that is just the tip of the iceberg.

The IG has reams of material that clearly demonstrates that General Barry engaged in misconduct with the others.

I do not have that material, but it exists. I can assure you of that.

That material is the foundation for the IG's recommendation and the Secretary of Defense's decision.

If the committee thinks the October 25, 1990, document is the only incident involving General Barry, then the committee needs to examine the IG's extensive files.

So, Mr. President, if illegal C–17 progress payments were made to McDonnell Douglas between July and December 1990—and DOD inspector general has documented the fact that illegal payments were indeed made, then General Barry is, at least, in part, responsible for what happened.

The DOD inspector general says Barry was responsible.

The Secretary of Defense at the time, Secretary Aspin, said General Barry was responsible and should be held accountable.

Now, what was the problem that General Barry and the others were wrestling with?

McDonnell Douglas was facing a $1.5 to $2 billion cost overrun on C–17 fixed-price contracts. That loss came on top of other major financial losses—mainly the losses on the Navy's A–12 stealth bomber.

To soften the blow, General Barry and his accomplices devised a clever scheme to cover up mounting schedule delays and a burgeoning cost overrun in order to maintain a steady flow of cash to McDonnell Douglas.

When all the R&D money was exhausted and there were still $235 million outstanding bills against the R&D contract, these officials arbitrarily shifted the cost overrun to the production contract that was fat on cash.

This procedure, known as the infamous Journal Voucher Operation, violated several statutes, including the antideficiency act.

The antideficiency act violation is still under investigation. It still has not been resolved. The DOD inspector general is still wrestling with it.

Mr. President, the journal voucher transfer operation was a crooked scheme.

They also authorized progress payments that were not commensurate with the work performed. They were premature progress payments. McDonnell Douglas had not earned the money yet but got paid anyway. They needed the money and got it.

This was contractor nourishment at its worst.

That term "contractor nourishment" is something used every day over at the Pentagon to talk about these sorts of schemes—only you are not supposed to know what contract nourishment is.

In all, illegal progress payments on C–17 contracts totaled about $350 million, according to the inspector general.

The $350 million in premature progress payments was for one brief 6-month period—July through December 1990. That is the period of time examined by the inspector general's investigation.

Other illegal payments may have occurred before or after those dates. We do not know.

Premature C–17 progress payments violated section 2307 of title 10 of the U.S. Code.

The C–17 program management team showed contempt for this law.

They ignored it, making payments to McDonnell Douglas according to their own standards and the contractor's needs. There was no effort to protect the taxpayers' interests.

I am disgusted by the way the money was shoveled around on C–17 contracts. I spoke about this problem on the floor of the Senate on numerous occasions.

I was so angry about it that I offered an amendment to the fiscal year 1994 defense appropriations bill to address the problem—to ensure that future C–17 progress payments conform with the law. That order was given on February 19, 1993.

The "Air Force Review of the January 14, 1993, DOD IG Report on the C–17" was completed in April 1993.

This report is known as the Nordquist report—after the Air Force deputy general counsel, who directed the effort.

This was another typical Air Force reinvestigation of a DOD inspector general investigation.

It was a whitewash.

In a nutshell, the Air Force concluded that there was no factual basis or evidence to support the suggestion that the five officials may have engaged in criminal conduct.

The inspector general never charged General Barry and the others with criminal conduct. The inspector general never called for criminal prosecution.

This was not a criminal investigation. It was an administrative inquiry from day one.

Clearly, the IG report raised questions about the possibility of criminal conduct.

The inspector general suggested that General Butchko and the others knowingly made false statements and that all of them together "acted in concert to develop and implement a plan which was based on false and misleading information."

Making false statements and engaging in a conspiracy constitute potential criminal conduct and potential court martial offenses under the Uniform Code of Military Justice, Articles 87 and 107.

But the IG never attempted to pursue those charges.

The amendment was accepted and is now law: section 8145 of Public Law 103–139, signed by the President on November 11, 1993.

All the facts that support these findings are carefully and thoroughly documented in the inspector general's report.

This report was then submitted to the Secretary of Defense for further review.

The Secretary of Defense at that time was Mr. Les Aspin.

After reviewing the inspector general's report, Secretary Aspin ordered the Air Force to respond to the allegations with 60 days.

So the question of criminal conduct was really a red herring.

But the Nordquist report also suggested that there was no evidence that would warrant the need for disciplinary action.

Former Secretary of Defense Aspin disagreed with that judgment.

Secretary of Defense Aspin's final decision on the need for disciplinary action is outlined in a memo dated April 29, 1993. The memo is directed to the Acting Secretary of the Air Force.

The memo bears Mr. Aspin's signature.

Mr. President, I would like to read the memo in its entirety. It says:

In January, the Deputy Inspector General released a report on the C–17 program and the financial condition of the McDonnell-Douglas Corporation. The report raised questions about the management and financial integrity of the C–17 program, and specifically about Air Force actions to provide financial assistance to the Douglas Aircraft Company in late 1990.

After reviewing the Inspector General's report, I directed the Air Force to respond to the allegations. This instruction was issued in my memorandum of February 19.

Last week, the Air Force forwarded its response. I have now reviewed the report and the Air Force comments concerning allegations about five key Air Force personnel involved in the C–17 acquisition program.

In its examination of the allegations, the Air Force found no basis to believe that criminal conduct was involved in the management of the program. The facts presented to date by the Deputy Inspector General and the Air Force suggest that this finding is correct.

The Air Force also found that some management actions, while questionable, were within a range of normal management discretion. I disagree with this judgment.

The defense acquisition system operates on the principle of centralized policymaking and decentralized execution. At the heart of the system is the need for accountability at all levels. If the system is to work, then those charged with the responsibility for the management of billion dollar systems must perform to the highest standard.

The story of the C–17 program reflects an unwillingness on the part of some high-ranking acquisition professionals to acknowledge program difficulties and to take decisive action.

I hope I made that clear:

The story of the C–17 program reflects an unwillingness on the part of some high ranking acquisition professionals to acknowledge program difficulties and to take decisive action.

Let me comment here because it fits into some other things. Even the Secretary of Defense says that it is difficult to get people to hold other people who ought to be responsible and accountable for what they do.

I am continuing to quote:

Without questioning the motivation of Air Force personnel, I must insist that program leaders understand their responsibilities to identify, early and forthrightly, significant program difficulties. Clearly, this was not done in the case of the C–17.

This is what Secretary Aspin orders:

Consequently, I direct that you take the following actions:

First, because the former program manager has not demonstrated the judgment necessary for senior leadership positions, he should be relieved of his current duties.

That is General Butchko, and that did happen.

Second, the lack of judgment of four of the five individuals should be made part of their permanent record.

So the Secretary of Defense is saying that what four individuals, including Barry, did is so significant or their shortcomings, we will say were so significant that it should be made a part of their permanent record:

Third, because I have lost confidence that four of the five individuals identified in the Deputy Inspector General's report can be effective in acquisition, they should not be assigned to work in the acquisition management area.

One of those, Barry, is who the President and the committee wants to advance to lieutenant general rank for retirement.

Should we give the stamp of approval of the Senate to a person who has been so cited by the Secretary of Defense?

And the final two paragraphs by the Secretary say:

Knowing that both civilian and military Air Force personnel in the acquisition system are dedicated, capable professionals, I trust that this community will recognize that the motivation for my actions is to strengthen the acquisition system and to encourage its efficient operation.

It sounds to me like the Secretary is saying that if people did something wrong, you have to cite them for their wrongdoing, someone's head has to roll, and by doing that you are going to strengthen the system by holding people accountable.

Finally, it is apparent that allegations of misconduct in an Inspector General report also present difficult issues of fairness for the rights of those who work in the Department of Defense. Therefore, I am asking the DoD General Counsel to develop procedures with the Inspector General for dealing fairly with individuals who are the subject of such reports.

Now, does Secretary's decision clear General Barry?

Does it tell us that General Barry distinguished himself as C–17 Program executive officer?

Does it say that General Barry did a good job?

Does it tell us that General Barry is affirmatively qualified for confirmation by the Senate?

Mr. President, I believe the answer is "No." Obviously, the committee believes otherwise.

Mr. Aspin's memo tells us that General Barry is, in part, responsible for what happened.

He is responsible and must be held accountable.

The Secretary of Defense said he had "lost confidence" in General Barry, and he "should not be assigned to work in the acquisition management area."

A formal letter of reprimand was placed in his permanent record.

Secretary Aspin's decision had the practical effect of relieving Barry of most of his command.

As Commander of the Space and Missile Systems Center, he is responsible for managing the acquisition of space launch, command and control, and satellite systems.

If General Barry cannot make acquisition management decisions, I might ask and I am questioning Secretary Aspin, why has he been allowed to remain at that important post for the past 18 months?

Why?

I have some suspicions but no hard evidence. These are my suspicions.

General Barry and the Air Force figured if they waited long enough, the C–17 scandal would blow over and everyone would forget about it. Then they could sneak his nomination through under the cover of darkness.

It was not done under the cover of darkness, but it was done the very last business before we adjourned.

Also, I know the Air Force holds the inspector general in low regard.

The Air Force likes to thumb its nose at the inspector general. The Air Force does it and gets away with it.

I would like to try to put that assertion into better perspective.

Consider the current Chief of Staff McPeak's comments before the House Armed Services Committee on April 1, 1993.

McPeak's remarks were directed at the inspector general's report on the C–17 and all the controversy it created.

All that criticism, he testified, "presupposes that a lot of the charges that have been made by, you know, newspaper people and adolescent auditors and so forth are true," but "many of these charges will turn out not to be true in the long run."

That's Chief of Staff McPeak referring to the inspector general as "adolescent auditors." That's how the Air Force views the inspector general—"Adolescent auditors." That does not show a lot of respect by the Air Force Chief of Staff of the inspector general and the people who work there.

This cavalier attitude is reflected in the way the Air Force carried out the disciplinary action dished up by the Secretary of Defense.

It was rendered down to not much more than political fluff.

Let us look at what happened after Secretary Aspin's decision of April 29, 1993.

What happened to the five persons who were identified as being responsible for abusive practices and mismanagement on C–17 contracts.

What happened to these people? Were they held accountable as Secretary Aspin promised?

First, General Butchko:

General Butchko got hammered for sure, but that decision was made by the Secretary of Defense.

He was relieved of command and retired immediately.

Butchko was held accountable.

General Butchko's boss—the man who presumably reviewed and approved all of Butchko's actions—and I am talking about General Barry—he has been allowed to wait in the wings for a fat nomination.

But I will return to Barry in a moment.

Next, there is Brigadier General Nauseef.

Following the inspector general's uncovering of wrongdoing and the Secretary of Defense's decision to discipline him for it, the Air Force recommended that Nauseef be promoted.

Nauseef's nomination for promotion to the rank of major general was submitted to the Senate for approval on January 20, 1993—after the inspector general's report was issued on January 14.

Now, if that is not contempt for an inspector general's report, what is?

Keep in mind that the inspector general's investigation began in February 1992.

That Nauseef was a principal target should have been a well-known fact within the Air Force long before January 1993.

The inspector general and the Secretary of Defense call for disciplinary action and the Air Force responds with a call for promotion.

That defies reason and understanding.

Well, after considerable criticism and complaint, the President did withdraw the Nauseef nomination on July 23, 1993.

Then came the Barry nomination.

On October 28, 1993, the President nominated Barry for advancement on the retirement list in the grade of lieutenant general.

Here is another request for Senate confirmation in the face of calls for disciplinary action.

How do you square a call for disciplinary action with a request for Senate confirmation?

Senate confirmation and disciplinary action seem to be incompatible.

There is an additional factor bearing on the pending Barry nomination.

Barry was promoted from the rank of major general to his current rank of lieutenant general after engaging in

the alleged abuses and mismanagement procedures reported by the inspector general.

The misconduct by General Barry occurred between July and December 1990.

His promotion to lieutenant general was approved by the Senate on May 15, 1991. His date of rank is June 1, 1991.

Had the misconduct been verified and documented by the inspector general prior to June 1, 1991, General Barry's advancement to the rank of lieutenant general might never have approved.

After General Barry comes Ms. Darleen Druyan.

After looking at all the evidence, Dr. Deutch "concluded that punishment of Mrs. Druyan was not appropriate and she would continue to hold her present position." He said her "involvement was too limited" to warrant disciplinary action.

She only did one bank robbery, in a sense. She got in and out quick. So that is evidentially OK.

Ms. Druyan currently occupies a key position in the acquisition management area. She is the Deputy Assistant Secretary of the Air Force for Acquisition.

She moved into this position in February 1993—that is about 1 month after the inspector general recommended that she be disciplined for her involvement in the scheme to funnel illegal payments to McDonnell Douglas.

Mr. President, it sounds like Ms. Druyan received an award for her role in the C–17 caper. It sounds like a reward. It sounds like another promotion.

And Ms. Druyan has been promoted up again—just recently—to the Principal Deputy Secretary of the Air Force for Acquisition.

I have to confess that the fate of Mr. Hixenbaugh, the last one of the five, is unknown.

He is still on the job, as far as I know.

On April 29, 1993, Secretary of Defense Aspin took decisive action against four senior Air Force officials for misconduct on the C–17 program.

Aspin sent out a clear, unambiguous signal: Zero tolerance toward dishonesty and abusive practices in the acquisition community.

It was meant to be a stern lesson in accountability.

But Aspin's lesson in accountability was turned upside down by the Air Force.

I would like to revisit the Secretary of Defense's decision of April 29, 1993.

I would like to go over the main points one more time.

I think they contain a powerful message about Barry's suitability for Senate confirmation.

The Secretary of Defense said there is a need for accountability at all levels.

The Secretary of Defense said that those who are charged with the responsibility of managing billion dollar systems must perform to the highest standards.

Those who fail must be held accountable.

The Secretary of Defense said:

The story of the C–17 program reflects an unwillingness on the part of some high-ranking acquisition professionals to acknowledge program difficulties and to take decisive action."

That is a very kind way of explaining what really happened.

These high officials acted in concert to funnel illegal payments to McDonnell Douglas.

The Secretary of Defense said General Barry and three others had demonstrated a lack of judgement.

For that, he placed formal letters of reprimand in their permanent records.

The Secretary of Defense said that he had lost confidence in General Barry and three others.

The Secretary of Defense said he believed that those four individuals could no longer be effective in acquisition and that they should be removed or bannished from the acquisition management area.

The Secretary of Defense said: I have "lost confidence" in General Barry; I will place a formal letter of reprimand in his permanent record for misconduct; I do not trust his judgement; I will banish him from the acquisition management area.

The Secretary's decision had the practical effect of relieving General Barry of his present command.

As commander of the Space and Missile System Center, General Barry is responsible for managing the acquisition of space launch, command and control, and satellite systems.

Under Secretary Aspin's directive of April 29, 1993, General Barry is not authorized to carry out his primary responsibility.

In sum, Mr. President, Secretary Aspin's decision regarding General Barry's misconduct is not compatible with Senate confirmation.

Senate confirmation and strict disciplinary action just do not go together. They do not mesh.

Mr. President, now, there is new, damaging allegations against General Barry.

These new allegations against General Barry are contained in a recent report prepared by the Inspector General.

The report is entitled "Air Force Merged Account Obligations," Audit Report No. 94–139, dated June 17, 1994.

I have a copy of that document. I am not going to read from it, but I will hold it up so that you know that this document contains new allegations against General Barry as recently as June 14, 1994, written up by an independent person, the Inspector General.

Once again, the Inspector General caught General Barry making illegal payments to contractors—progress payments for work that had not been performed—just like on the C–17 contracts.

General Barry approved a policy that authorized illegal payments of $9.9 million to General Electric and TRW on two satellite contracts.

On August 17, 1993, I wrote to the Secretary of the Air Force, asking if the illegal authority granted by General Barry had been rescinded and if the money had been recovered.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 17, 1994.

Hon. SHEILA E. WIDNALL,
Secretary of the Air Force,
Pentagon, Washington, DC.

DEAR SECRETARY WIDNALL: I am writing to raise questions about a finding in a recent Department of Defense Inspector General's (IG) report that the Air Force made illegal advance payments on two satellite contracts.

The IG report in question is entitled "Air Force Merged Account Obligations," Audit Report No. 94–139. It was issued on June 17, 1994.

The IG charges that the Air Force paid two contractors—General Electric and TRW—at least $9.9 million for unearned "on-orbit incentive fees" for satellite systems. The money was taken from the M accounts.

These payments violated Section 3324 of Title 31 of the U.S. Code. Section 3324 allows advance payments but only if authorized by a specific appropriation or other law or by the President. No such authorization existed.

These payments also failed to comply with Section 2307 of Title 10 of the U.S. Code and a host of related federal and departmental regulations, including the Federal Acquisition Regulation (Subpart 32.402; Paragraph 32.409–1), the Defense Federal Acquisition Regulation Supplement (Subpart 232.4; Paragraph 232.409–1), and DOD Manual 7220.9M (Chapters 25 and 35 of the Accounting Manual).

Instead of obeying the law, the IG charges that the Air Force used a "local" policy issued by the Space and Missile Systems Center in Los Angeles, California, in an unsuccessful attempt to legalize the payments and circumvent the law.

Secretary Widnall, the IG report states that the policy document, which was used to authorize illegal payments of $9.9 million to General Electric and TRW, was signed by the current Commander of the Space and Missile Systems Center, Lieutenant General Edward P. Barry, Jr. Is that correct? Has the authority granted in the policy document signed by General Barry been rescinded? Have the illegal payments been recovered by the government? Was the Antideficiency Act violated in either case? Who approved the advance payments? And are there any indications that General Barry is continuing to exercise "acquisition management" responsibilities in violation of former Secretary Aspin's directive of April 29, 1993?

I respectfully request answers to these six questions by August 30, 1994.

Your cooperation in this matter would be appreciated.

Sincerely,

CHARLES E. GRASSLEY.

Mr. GRASSLEY. That letter was sent out on August 17. Almost 2 months have passed, but I have yet to receive an answer.

Mr. President, there is just too much unfavorable information on General Barry. The Senate should not confirm him for advancement on the retired list in grade of lieutenant general.

These nominations will be subject to a voice vote. I want the RECORD to show that if there were a recorded vote, I would vote against these two nominations.

Mr. President, I am going to yield the floor just in a moment. For this Congress, I believe that this is all I have to say on these nominations.

But I hope, first of all, that all the reform that has been suggested to be made to correct these situations materializes. If they materialize, if they are as good as the chairman of the committee suggests, then perhaps that takes care of a big part of the problem. I am dubious that that is going to be the case. It is doubtful in my mind that that is going to be the case. I have seen too many other times where we passed reforms and they are just not carried out the way we intended them.

I hope also that maybe the debate yesterday and today on these three nominations and the 30 votes against the Glosson nomination and the votes that we had against Admiral Kelso, several votes against him, and the outstanding work done by some of the Members on that nomination, send a signal that Senate confirmation of military promotions is not going to be taken lightly by a lot of us in this Chamber, and that you can expect that I am going to continue to review these nominations next year.

It would be very helpful if, when they send them up, they would stagger the controversial ones so that we do not have to tackle them all at once. It would be a little easier.

But, however they do it, we are going to continue to read inspectors general reports, and we are going to make sure that people who are not qualified for promotion do not get the promotion.

I hope this will cause people in the Department of Defense to be much more careful and responsible as they approach this process of promoting people, and not promote people—do not send us your problems. Do not promote people who have bad records. I hope, too, that we do not say it is all right to do something illegal and get away with it just because you had a distinguished military career. That does not send a very good signal to other people serving in the military.

We need to set an example for those people who are at academies, who are taught through the honor code to do what is ethical and moral and legal. And when you have this illegality that goes on in the higher ranks, how can you expect people at the lower ranks to feel morally bound by that code?

Most important, I think we in this Senate are trying to create an environment of a new Senate. It seems to me that integrity is the most important facet of the new Senate. So a new Senate cannot in any way set a good example if it is going to ratify the same old stuff, the same old attitude of the Defense Department, to "go along to get along." That is a ratification of an environment where there is a great deal of peer pressure to conform. That is the sort of environment we are going to rubber stamp when we approve these nominations where there is questionable conduct by the people involved.

So, on January 3 we start over again. On October 1996 when we are adjourning, I hope we are not presented with a bunch of nominations that have been nothing but trouble since they have come out of the Defense Department. Because, as I said, some of these nominations could have been considered months ago. And whatever I had to say about these nominations I could have said months ago. But they were not before the Senate.

We took up these questionable nominations at a time when we were starting debate on an unfunded mandates bill, and on a bill to give coverage of some of our laws to congressional employees. In other words, the laws we have exempted ourselves from over the last several years. I have been a proponent of congressional coverage, applying those laws to us. Those bills just could not come up the last minute but we find plenty of time to bring up these controversial nominations. Whoever is in charge of the Senate in October 1996, I hope they will understand that right now: If I have to fight these things in the midnight hours of the closing day of the session 2 years from now, like I did this time, I will do it. That will put my colleagues on notice: Do not come around crying on my shoulder that you have an airplane to catch. Because I did not make this bed. I did not set the agenda. The agenda was set by others. The best way to handle this stuff is to handle it timely. Do more work during January, February, or March so we do not have to play catch-up during October.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Iowa yields the floor.

The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, inquiry of the Chair. We have been discussing for some time three nominations. The Senator from Nebraska believes that the Glosson nomination was previously approved by the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. There are two remaining matters to be disposed of with two other officers.

I have listened with great interest to my friend and colleague from Iowa. I congratulate him again for his expertise and remarks on these matters. However, I think the time is now the Senate should move on these.

Mr. President, I urge the Senate proceed to approving the two other officers who remain to be considered.

I ask unanimous consent, if the approval is confirmed by the Senate, that automatically the motion to lay on the table be agreed to and the matter would be, therefore, disposed of.

CONCLUDING REMARKS—NOMINATION OF LT. GEN. EDWARD P. BARRY, U.S. AIR FORCE, TO RETIRE IN GRADE

Mr. President, I would like to briefly summarize the remarks I made yesterday concerning the nomination of Lt. Gen. Edward P. Barry, U.S. Air Force, to retire in grade. His nomination received the unanimous support of the Committee on Armed Services.

In a September 30, 1994, letter to the committee, Deputy Secretary of Defense John Deutch outlined the highlights of Lt. Gen. Barry's military record:

LTG Barry has had a 33-year distinguished career serving our country. His accomplishments have directly impacted our national security. For example, in 1982 he received the Air Force Association's National Award for Program Management as Program Director for the Defense Support Program. The system's detection of Iraqi-launched SCUD missiles during Desert Storm provided crucial advance notice of attack, which saved lives and enabled our air defense system to react. As Commander of the Ballistic Missile Division, he successfully fielded 50 Peacekeeper ICBMs, on schedule and under cost, while sustaining Minuteman II/III operational requirements.

Other highlights of his career include service as the program director for the NAVSTAR Global Positioning Satellite at its inception in 1978, vice commander of the Aeronautical Systems Division, and commander of the Air Force Space and Missiles Systems Director.

Senator GRASSLEY has raised many points about the problems in the C–17 program. I agree that has been a troubled program. In fact, I supported Senator GRASSLEY's amendment to disapprove the C–17 settlement agreement—but the Senate chose to approve that agreement.

It is one thing to describe a program as being troubled. It is something very different to deny retirement in grade to an officer with 33 years of distinguished service—particularly when that officer did not have direct responsibility for the troubled program. Lt. Gen. Barry was not the program manager. He was the Air Force's Program Executive Officer for Tactical and Airlift Systems, for a 2-year period, in which he had general oversight for some of the most significant programs in the Air Force including the F–22, the F–15, the F–16, and the C–17.

The C–17 program has been investigated, reviewed, and examined in

great detail. In all those reviews, there has been no finding that Lt. Gen. Barry was involved in any misconduct. In the voluminous IG report on the C–17, the only mention of Lt. Gen. Barry involved one document, in which he described the program risks as "moderate to high." The IG felt that his warning should have been stronger. Subsequent reviews by the Air Force have indicated that his description was accurate.

Even if his warning could have been stronger—a matter that is clearly subject to interpretation—it would represent a single blemish on an otherwise outstanding career. There was no fraud, no abuse, no misconduct. Just one question about a subjective analysis.

On September 30, 1994, Deputy Secretary Deutch advised the committee that he had personally reviewed Lieutenant General Barry's role in the C–17 program. He concluded that "if Lieutenant General Barry had not elected to retire, I would have returned him to acquisition duties." He added that his "performance in his current position as the commander of the Space and Missile Systems Center in Los Angeles has further demonstrated his professionalism and dedication to duty."

Mr. President, it is important to remember that the C–17 program was a troubled program long before Lieutenant General Barry became program executive officer, and that the decisions regarding cost, schedule, and performance of the program were not his. They were made at the highest level of the Air Force.

It is certainly possible, with hindsight, to suggest that Lieutenant General Barry could have done more to address the problems in the C–17 program. I do not believe, however, that it is wise or desirable to insist that military officers achieve a standard of perfection in order to retire in grade. There has been no showing that he acted or failed to act in any manner that would cast doubt upon his professionalism or integrity.

Lieutenant General Barry has served his Nation with distinction, and has had many successful tours of duty. He has contributed to the strength of our Armed Forces, and to our national security, through the development of sound and successful acquisition programs. In view of his overall career, and in view of the high degree of confidence that the current leadership of the Department of Defense has expressed in his abilities, I strongly endorse his nomination to be retired in grade.

The PRESIDING OFFICER. If the Senator will withhold for a moment.

The question is on agreeing to the nomination of Col. Claude M. Bolton, Jr. for appointment to the grade of brigadier general.

The nomination was confirmed.

The PRESIDING OFFICER. The clerk will report the Barry nomination.

NOMINATION OF LT. GEN. EDWARD P. BARRY, JR., FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST

The bill clerk read the nomination of Lt. Gen. Edward P. Barry, Jr., for appointment to the grade of lieutenant general on the retired list.

The PRESIDING OFFICER. The question is on agreeing to the nomination of Lt. Gen. Edward P. Barry, Jr., for appointment to the grade of lieutenant general on the retired list.

The nomination was confirmed.

The PRESIDING OFFICER. Without objection, the motions to reconsider will be tabled, and the President will be immediately notified.

Mr. EXON. I have an inquiry of the Chair. Now we have disposed of the three military promotion nominations, is that correct?

The PRESIDING OFFICER. The Senator from Nebraska is correct.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Chair asks the Senator to withhold for a moment.

If there is no objection, the Senate will resume legislative session.

SAFETY LEGISLATION

Mr. EXON. Mr. President, on another subject, I would like to address a matter, a very serious matter in the opinion of the Senator from Nebraska. I am chairman of the Surface Transportation Subcommittee under the Commerce Committee with the prime responsibility that committee has. I am ably assisted by Senator HUTCHISON, from Texas. It is a matter of safety on our roads.

This is a very important matter that is being currently held up by technicalities, preventing some very important safety legislation to pass. This Senator from Nebraska happens to chair the Surface Transportation Subcommittee of Commerce. One of our major responsibilities there is safety, S-A-F-E-T-Y, on our roads, at our grade crossings, for all of our rail and truck and bus transportation.

We had a great deal of hearings, a great amount of work on two important pieces of legislation that, at this late date, have come back from the House of Representatives and we have to act on them or we can stall them and they go by the wayside. I make reference to H.R. 5248, the so-called one-call notification bill, where one call can be made when anyone digs on a right-of-way of any kind to keep from the dangerous matter of digging into pipes that cause explosions.

Connected with that is the high-risk driver's bill that was introduced by Senator DANFORTH, of Missouri, and myself. It has to do with the astonishing increase in young drivers. We have taken this piece of legislation to try and correct that, with cooperation between Federal and State authorities.

In addition to that, we have H.R. 4867, which also has passed the House of Representatives, which has adjourned. H.R. 4867 is another safety bill. It is the high-speed rail bill advanced by the administration. And coupled with that is the railroad crossing safety measure that is vitally important that this matter becomes law.

The Senator from Nebraska, in cooperation with Senator HUTCHISON, Senator LOTT, Senator DANFORTH, and others, spent all day yesterday and all this morning clearing some holds on that side of the aisle.

Now these measures then are being held up in clandestine fashion at a very late date by holds on this side of the aisle.

The Senator from Nebraska wanted to go home last night. The last chance for the Senator from Nebraska of getting out of town today is 2 o'clock, some 47 minutes from now.

I hope that if anyone has any hold on either of these bills, H.R. 5248 or H.R. 4867—which I understand have been cleared in total by the Republicans, have been cleared, I think, except for one possible objection on this side of the aisle.

The Senator from Nebraska, if necessary, will forgo his last chance to go home, as most others have. I think these two measures are safety matters, and notwithstanding the objections of some who may be disturbed that pet projects that they had were not included, I had nothing to do with that. The House of Representatives acted on that. The House of Representatives has gone home.

Unless we can get these two bills adopted by the Senate, which will require unanimous consent at this late date, obviously, then they are going to die. If they die, Mr. President, important safety legislation is dying.

I will simply say that if there is anyone in the Senate, either on the Democratic side of the aisle or on the Republican side of the aisle who has holds on these bills—and we all know what holds are. Sometimes they are secret. Somebody is objecting to a bill but they will not stand up on the floor of the U.S. Senate and say why they are objecting to it.

I call on anyone who has any objection to either one of these bills not to stand behind the clerks, not to stand behind any cloak of secrecy. If there are legitimate objections to either one of these bills, then I would like someone to come forth on the floor of the U.S. Senate, and I will be here to defend the bill. If not, I hope that we will

not allow secret holds, that nobody knows for sure who is doing it, to stand in the way of these two very important pieces of safety legislation that I think all 100 Members of the Senate would approve if they had an up-or-down vote.

I am pleading, Mr. President. These two are important pieces of legislation. The only way we are going to get them through, after a lot of work in committee, after 2 days now of clearing objections—some of them real, some of them not real, some of them where beliefs or concepts that Senators had that were not included in these pieces of legislation. We have done a lot of work. We put in a lot of time. I think it is vitally important that the House action be adopted by the Senate and the bill sent to the President for his signature.

I recognize that only one Member can stop that, if they want. But if someone has some objection, let that person come forth, stand up on the floor of the U.S. Senate, announce his or her objection and then at least we will know where the responsibility falls.

The Senator now yields the floor, but I will be awaiting for information, hopefully very shortly, and, if necessary, I will abandon my last chance to go home today, since it is a long ways out there. But I think this is important and I think maybe this is the time when we should begin to put a spotlight, Mr. President, on this insidious manner of unknown people putting holds for unknown reasons on pieces of legislation that have required hours of time and expense. I do not think it is fair, I do not think it is reasonable. Although I recognize any of us have a right to put on holds, I wish that whoever is holding this up now would come forth, be seen and give us the reason that these important pieces of safety legislation are not being allowed to pass.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE TRASH, SALTWATER RESEARCH, AND AFRICAN-AMERICAN MUSEUM

Mr. SIMON. Mr. President, let me just comment on three things very briefly.

One is something that I just chatted with Senators WOFFORD and BAUCUS and COATS about, and that is the flow of waste between States and agreements.

There has been a problem with the city of Chicago. The city of Chicago recognizes that they do not want to be a stumbling block, and so I have entered a colloquy in the RECORD. We are going to try to work out the difficulties that remain there.

A second issue that we are very, very close to getting worked out, I hope, is something important to civilization, and that is getting research done to find a less expensive way of converting saltwater to freshwater. The Presiding Officer is from Hawaii. Hawaii, fortunately, has plenty of water. But there are a lot of places surrounded by water, surprisingly, that have severe water shortages. If you take a look at the world today, its population is going up like this. About 5.7 billion today, by the year 2050 it will be somewhere between 8.5 to 10 billion. Our water supply is not going up. You do not need to be an Einstein to understand that period where we are headed for difficulty.

This bill to provide research not only has the interest of many people here, it has the interest of people as unlikely as Prime Minister Rabin and King Hussein and many other leaders around the world who recognize we are going to have to rely much more on ocean water in the future for water supplies. We can do it now for drinking water, but we cannot use it for agriculture and industrial uses because it is too expensive.

We are very close to a breakthrough here. We have ended up in a minor jurisdictional problem. Senator CHAFEE is looking at that right now. I hope he will be able to remove his hold and that we can move ahead. It is rare that you can say a bill is important to civilization. This one is important to civilization itself.

Then, finally, a measure that I have been working on for some time, together with Congressman JOHN LEWIS, from Georgia, over in the House, as well as a number of colleagues here—Senator MCCAIN has been great; my colleague, Senator CAROL MOSELEY-BRAUN, has been great—is to have an African-American museum here.

Because of the arcane rules of the Senate, any one Senator can have a hold on a bill. I have used it. I am sure the Presiding Officer has used it. We all use it. But I would vote tomorrow for a change in the rules. I think it is wrong that any one Senator can hold something up. But that is the situation. And one Senator has held up this Martin Luther King museum bill that the Smithsonian wants.

Other than planning money, they are not asking for any money for it. There is no cost. And yet it can tell American citizens and visitors who come here from around the world about the diversity of America and that two groups have very special histories, American Indians—native Americans—and African-Americans. For very different reasons, they have different histories.

The Smithsonian has an American Indian museum, native American museum, and they want to go ahead with an African-American museum. I have a hard time fathoming why anyone would oppose that when we are not asking for an additional penny of money, but it is being opposed. I hope next year we can work it out.

My colleague, Senator HELMS, who has the hold on it, has told me he will try to work with me in a good-faith effort to get something worked out next year. I hope we can do that.

Mr. President, if no one else seeks the floor, I question the presence of a quorum.

The PRESIDING OFFICER. The Senator from Illinois suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DOYLE RAHJES

Mr. DOLE. Mr. President, I would like to take this opportunity to honor an individual who is from my home State of Kansas. Doyle Rahjes is an outstanding Kansan and an ideal public servant.

After devoting more than a quarter of a century to the Kansas Farm Bureau, Doyle will step down as president of the Farm Bureau this November. A native of Agra, KS, Doyle's exemplary service dates back almost 30 years to his work on the Phillips County Farm Bureau Board. His commitment and effort to help Kansas farmers placed him on the Farm Bureau's Resolution Committee and Board of Directors. In 1973, he became the Farm Bureau's vice president and he rose to the presidency in 1983.

Doyle's tremendous concern for the agriculture community and the State of Kansas has also been recognized by those outside of the Farm Bureau community. He was a member of the Governor's task force on water resources and subsequently served 8 years with the Kansas water authority. He also participated on the executive committee of the National Livestock and Meat Board.

Doyle is a well known and respected authority on issues concerning farmers on the national level. He was selected to be a member of the American Farm Bureau Federation Board of Directors and its executive board. Doyle was also invited by the President to represent

his home State at the White House conference on national balanced growth and economic development.

His dedication to the agriculture community has not gone unnoticed by his fellow Kansans. He is the recipient of an honorary State farmer degree from the FFA and has been honored as the Kansas Farm Bureau leader of the Year.

Doyle's work has made the Kansas Farm Bureau a respected agricultural voice representing farmers in Kansas and across the United States. He has never lost touch with the concerns of America's farmers. He committed himself to serve the agriculture community and has done so in exemplary fashion. In November, Doyle will return to the agriculture community he has represented so well for nearly 30 years. He will go back to the farm he and his nephew run together to raise wheat, milo, and beef cattle.

Mr. President, on behalf of the State of Kansas, I want to extend my thanks and best wishes to Doyle Rajhes, his wife Charlotte, and to his children, Lori, and Kenneth.

TALKS WITH NORTH KOREA

Mr. DOLE. Mr. President, with all eyes on Haiti, little attention has been focused on the resumption of United States talks with North Korea. Two months after hailing a big breakthrough on the heels of Jimmy Carter's June meeting with Kim Il Song, the administration negotiations with the north seem to be on a treadmill going nowhere.

The only good news is that so far the North Koreans have not reprocessed the 8,000 fuel rods they removed from their reactors some months ago. The bad news is that the North Koreans have not agreed to send those rods out of the country. It looks like they may intend to string us along until right before the fuel rods corrode completely, when they can argue that there is an urgent need to reprocess them right there.

Mr. President, the bad news list does not end there. The North Koreans have not agreed to freeze their nuclear program while talks with the United States proceed. The North Koreans have not moved forward on talks with South Korea. Nor has an agreement been reached on allowing special inspections—in fact the North Koreans appear dead set against inspections of their suspect sites, claiming that such inspections would reveal military secrets. Let us not forget, this is the same issue that sparked the crisis with North Korea around 18 months ago.

On top of all this bad news, North Korean demands are escalating. The latest demand they made was for $2 billion, cash—on top of a $4 billion light water reactor project. But, while they still want this light water reactor, the North Koreans have said that they will not permit the South Koreans to provide it for them.

Today's New York Times reported that South Korean President Young Sam criticized the Clinton administration for being overeager to compromise, for ignoring the bigger picture of the north-south situation, and for excluding South Korea from the negotiations. President Young Sam said, and I quote, "* * * we think we know North Korea better than anyone * * * they are not sincere * * *. The important thing is that the United States should not be led on by the manipulations of North Korea." The South Korean President concluded, "We should not make more concessions in the future. Time is on our side."

Mr. President, I believe that the Clinton administration should start paying attention to what the South Korean Government is saying—they do know better—North Korea is their neighbor. We also need to include the South Korean Government more in this process. The administration needs to keep in mind that one of North Korea's key objectives is to drive a wedge between the United States and our close ally, South Korea.

Mr. President, it seems to me that right now the North Koreans are in the driver's seat, taking us on a ride to nowhere. It is high time for the United States—together with our South Korean allies—to get back in the driver's seat, to set some road markers and to let the North Koreans know that if these markers are not met, that we will rethink the generous—or, overly generous, in my view—offer to provide light water reactor technology at the cost of several billion dollars, which the American taxpayers are going to have to find.

Earlier this week, former Undersecretary of Defense Paul Wolfowitz, commented on the lack of progress in our talks with North Korea in the New York Times, and I quote, "It seems to me that we are in a situation where we are paying more and more for less and less."

The administration needs to be reminded that the North Korean Government is one of the most repressive, if not the most repressive regimes in the world; that North Korea has no future without becoming part of the international community. The administration also needs to remember that there are things that the North Koreans want, too, such as diplomatic and economic relations with the United States—and that's no small item. So, the message the administration needs to send to the North Koreans is that there is no hope of establishing diplomatic and economic relations with the United States if North Korea does not come into full compliance with the nonproliferation treaty—including special inspections. Moreover, the North Koreans must know that there is no deal possible without the support and involvement of South Korea. In my view, delivering this message is a first step to putting the United States back in the driver's seat.

THE REPUBLICAN LEADER'S END-OF-THE-SESSION REVIEW

Mr. DOLE. Mr. President, I would like at this time to touch on what I have called the end-of-the-session review.

As I recall, on January 21, 1993, I stood at this desk and announced what I thought the Republican priorities for the 103d Congress would be. Now that the session has come to an end, I want to report to my colleagues and to the American people on the progress we made in upholding those priorities.

I believe Republicans should be proud of what we stood for and fought for in the 103d Congress. As I said the day after President Clinton took office, the duty of Republicans is to support his proposals when we believe they move America in the right direction, and to change or oppose his proposals which we believe move America in the wrong direction.

It is as simple as that. When he is right, we support him. When we think he is wrong, we tried to modify or oppose.

From NAFTA, to health care, to taxes, that is precisely what we have done. In keeping with our constructive role as the loyal opposition, Republicans proposed responsible public policy initiatives on all major issues, including deficit reduction, health care, crime, violence against women, welfare reform, campaign finance reform, our relationship with the United Nations and NATO, and to include new democracies, to name just a few. Let me touch on a few of these issues in greater detail.

First of all, trying to change the economy for the better. The first priority I listed in 1993 was to change America's economy for the better. President Clinton inherited an economy that was already in recovery, and Republicans believe the recovery could be strengthened by promoting trade, cutting spending first, by tough and meaningful actions to reduce the deficit, and by reducing the redtape and regulations that prevent business from expanding and hiring more workers.

Unfortunately, the President has said, as recently as yesterday, that he is very proud of his economic package. Unfortunately, the President and the Democratic majority concluded that what the American economy needed was the largest tax increase in our country's history—$265 billion. It was supposed to be a $500 billion package with an equal number of tax cuts and spending reductions. We have now been told by the Congressional Budget Office

that about $70 billion of the spending cuts have disappeared.

So we have a big, big tax increase and a very, very small reduction in spending. This giant tax increase passed by one vote in the House, and not a single Republican voted for it. It passed by one vote in the Senate. Actually, it was a tie, and the Vice President of the United States, ALBERT GORE, voted to break the tie, and not a single Republican voted for it on this side. We are proud of that vote because we did not believe that raising taxes on Social Security, raising gasoline taxes on the middle class, and then raising taxes—the President would say on the "rich"—on a lot of the subchapter S corporations and others trying to create jobs and opportunities, to the tune of $265 billion, was not going to be any magic that would start any economic recovery or to keep the growth we already had sustained.

So because of that legislation, as I said, there is a 4.3-cent gas tax—not much, but it makes a difference to every senior citizen that earns more than $34,000 as an individual or $44,000 as a couple that was hit with a tax increase on social benefits. Over 1 million small businesses who file a subchapter S corporation were also hit with a retroactive tax that limits their ability to create jobs, and that tax increase on subchapter S corporations—the very corporations out there creating jobs—amounted to about a 3-percent tax increase.

We offered a commonsense cut-spending-first approach of deficit reduction. Had our plan passed, I am convinced we would have built on the recovery with more growth, more jobs, more investments, a stronger dollar, lower interest rates, and a stronger economy than we have today.

In other words, had we done nothing, I think we would have had a stronger economy today. But had we adopted a Republican plan, it would be even stronger. I must say most economists say it takes about 2 years for a big, big tax increase to have an impact on the economy. We can see that impact happening about now.

So I guess, though we may have disagreed on the tax increase, we were proud to support the President on the North American Free-Trade Agreement, and that was not easy to do. There was a lot of opposition to the North American Free-Trade Agreement, but in this case we believed, as Republicans, the President was right, and we supplied more votes in this body, even though we are outnumbered 56 to 44. We supplied more votes for the North American Free-Trade Agreement than did the Democrats. Republicans in the House provided more votes for the North American Free-Trade Agreement than did the Democrats because we believed the President was right and he deserved our support, and this was important to the American economy, and Republican support made the difference.

In this case, the Democrats who opposed it included the House majority leader, and the House majority whip opposed the President's position.

So it seems to me that there was another remarkable case where the parties came together or there was an absence of partnership on this side.

On another effort to cooperate with the administration and with the leadership in the House and the Senate, Republicans cooperated on all the appropriations bills, the 13 appropriations bills, billions and billions and billions of dollars, and it is necessary to pass these bills to get out Social Security checks, all kinds of checks to keep the Government going and many, many millions of individuals rely on us to move promptly on the appropriations bills.

All this was done in record time. It was only the third time it has been done on time since 1948. This would not have happened without Republican cooperation.

We have also worked in a bipartisan manner in cooperation with the Government, State legislators, city council members, and mayors across the country to try to stem the flow of unfunded mandates from Washington.

I particularly thank my colleague from Idaho, Senator KEMPTHORNE. Here is a young Member in the Senate, in his second year in the Senate. He is from the State of Idaho. He was a mayor of the city of Boise. He understands the impact of unfunded Federal mandates, and he made it his cause when he came to the Senate.

Because of his leadership, at least we had it up on the floor a couple days ago for a few hours. Then it became obvious it was going to be used by my colleagues on the other side as sort of a Christmas tree to hang all the amendments on so we would not be able to pass it and we did not have an opportunity, because, in my view, if you had an up-or-down vote on unfunded mandates—unfunded mandates is simply if the Federal Government passes a bill and tells the county, city, or someone else out there you have to spend money because we do not have it but we require you by law to spend it, we are not going to implement that mandate until we also provide the money to the city or the county or the township or some other subdivision because it is not fair for Congress with the President's signature to pass laws to make counties or State governments in Hawaii or Kansas or anywhere else pay additional money when they do not have the money.

So you have to give them a choice: Either you ignore the mandate or we send the money to implement the mandate.

We hoped that would pass this year. It did not pass. We regret that. But I want to say again our colleague from Idaho, Senator KEMPTHORNE, did his best. We will be back next year and we will certainly make that a top priority.

As we look ahead at the 104th Congress, which we do around this place, this is over about, we are coming back a couple days in November, and vote on the first day of December on the so-called GATT agreement. Then we will be back again in January. Some hope we may be under new management. We do not know yet. We are hopeful. We are working hard at it, and I know others are working just as hard to make certain it does not happen.

I think on this side of the aisle, whatever happens, we are going to continue to seek a stronger economy, more opportunity, and a broader future for our children with lower taxes, a smaller, less intrusive Government, lower deficit, lower barriers for trade, and more incentives to work, to save and to invest.

Another item that took a lot of time in the past year and a half is health care. Again, I promised—I stood here in January 1993—that we wanted to be a positive force when it came to health care legislation.

I remember the first time I met President Clinton, I guess semiprivately, was with my colleague from the House, Congressman BOB MICHEL, the Republican leader of the House, and the President told us one morning shortly after he had been sworn in as President of the United States that he wanted to work closely with us on health care and if we could not be there every day personally to work with his people, he wanted our top staff people there.

We never heard about that again. We were prepared to work closely with the President. We only had a couple other contacts in the past. We had a dinner with a few Members, with the President and Mrs. Clinton, and we had a couple visits by Mrs. Clinton to our office to talk to Republicans. That is about the end of the photo-ops or bipartisanship, or whatever you want to call it.

But we believe, first of all, that until we had a responsible proposal, the President was right in saying, where is the Republican's plan? So we developed a responsible proposal. We had 40 Republicans out of 44 cosponsors of that proposal. We had more votes than any other group in the Senate for our health care plan. We also had other plans introduced by others. Senator CHAFEE had a plan. Senator LOTT had a plan. Senator NICKLES had a plan.

We believe we had a number of plans that had many good parts in each of these plans, and I must say on the Democratic side there were a number of plans, and some of those in some areas were good, just as we thought some of ours were good.

What we wanted to do, the bottom line, was to build on the strongest

health care delivery system in America, not weaken it but strengthen it, because we do have the best system in the world. People come here to study. People come here for research. People come here for operations. When they are serious, they come to America.

We understood from the start if you have a preexisting condition and you cannot get insurance, we ought to take care of that.

I listened one night on C–SPAN while I was doing my treadmill. I do not do it too fast. I get to watch a lot of C–SPAN. I heard Ira Magaziner say there are 84 million Americans with preexisting conditions. Maybe some of the preexisting conditions are not serious enough to deny you coverage. But whatever it is, they ought to be taken care of. We ought to take care of it.

Nobody disagrees with that. Not a single Member of this body on either side of the aisle disagrees. We ought to take care to cover that.

Affordability. You should not be locked into your job because you think if you move you are going to lose your insurance. We ought to take care of that. Nobody will deny that. Nobody opposes that on either side that I know of.

So there are a number of areas that we had agreements on.

Malpractice reform. Your doctor ought to spend more time with you than he spends in court or more time with you than he spends practicing defensive medicine. Everybody on this side agreed with that. I am not certain because of the American trial lawyers' involvement with the other party how many agreed to that on the other side of the aisle.

But there are probably about 20 areas where there were basic agreements.

So, it just seems to me when you start, as the President did, with leadership in the Congress, the Democrat leadership trying to meet in secret with about 500 people to draft a plan and locking out Republicans, locking out the public, you get about what you ended up with—nothing. Nobody ever understood it. Nobody ever trusted it, because it was too big, too complex, too bureaucratic, too costly, too many regulations.

So it seems to me that the President's plan and the plan of most Democrats—they share a lot in common. As I said, they have too much government. They had too many bureaucrats. It cost too much and, in effect, it started to undermine the best system of health care in the world in the United States.

So, as I said before, we were blamed. We get blamed for everything, except that plane that crashed into the White House, and I assume somebody will blame Republicans for that. In fact, I saw in the Dallas Morning News a cartoon. It had this plane leaning up against the White House and had the President standing out there with someone else, and the fellow said: "I did not know BOB DOLE was a pilot."

Apparently, we are blamed for that, too, in some areas.

But our view was we did not devise any parliamentary maneuvers behind closed doors late at night that put the brakes on health care. It was the American people. They were Democrats, they were Republicans, they were independents who called our offices, who wrote letters, who called everybody's office. They said: Wait a minute. I do not want to give up my health care system. I am a union member. I am something else. I am a worker. I am a small businessman. I am a housewife.

That does not mean there are not serious problems that ought to be addressed.

There have been a lot of hand wringing around this town since health care went down the tubes. What went wrong? Nothing. It went right. Democracy worked. That is the way it works. You give the information to the American people—and there are probably two or three categories—if you do not understand, you are not going to buy it. If you do understand it, you may be for it or you may be against it. Some people maybe just never tuned in. So that is the third category.

Here is a plan which started off with 60-some percent support of the President's plan and ended up with support of somewhere around the low thirties or maybe even lower than that.

But my pledge at this time is to work next year on health care, addressing some of the serious problems that we have been prepared to do all along.

What we do not want is a mountain of bureaucrats between you and your doctor. The American people want choice—choice of hospitals, choice of doctors. We know we have to have cost containment. It would be irresponsible to talk about all these things we are going to do without somehow saying how you are going to pay for it. Somebody has to pay for it. And if we cannot pay for it, we better not do it.

The President's plan promised everything to everybody—free drugs, free long-term care, take care of early retirees for the big three motor companies who made a lot of sweetheart union deals costing them a lot of money. He was going to take care of everybody and it was going to save money. You cannot do that. You cannot do that in the real world.

So we are prepared to go to work again in January on health care.

I think another very important concern we had was changing our criminal justice system for the better. You ask Americans anywhere in America—San Diego; Russell, KS; Charlotte, NC; wherever, Washington, DC—particularly Washington, DC—what is the most important problem? Crime. Crime will be No. 1 in every survey, I would almost bet, anyplace in America, whether it is rural areas or urban areas, because Americans by the millions live in fear of violent crime in some places.

In New York City, senior citizens live up in their apartments with bars on the windows and locks on the doors. They are virtually prisoners in their own apartments. They are afraid to go out.

So we passed the crime bill, if you can call it a crime bill.

We passed a good crime bill in the Senate a little while back, 94 to 4; bipartisan, nonpartisan. But a strange thing happened. It went over to the House.

And I carry this little card around in my pocket. I have had it for about 60 days. The House started putting little things in the conference that nobody had ever heard of. And they were not little things—$2 billion for the Local Partnership Act; $1.1 billion for the Ounce of Prevention Program. It added up to $10 billion, almost. All this went into the crime bill without 1 minute of hearings.

Now I would say to anybody in this Chamber, if you wanted to get a project for your State and it was going to cost $2 billion, you would have to bring the whole State back here for hearings. You would have to have hearings here, hearings in the House. It would take years to do it.

This all happened in 20 minutes. Not a single hearing.

The crime bill we passed finally—not the Senate bill, but the one that came back after conference—is going to add $13 billion to the deficit—$13 billion. It is stuffed with pork. And, as we say, we do not mind a little pork, but this is the whole hog. This was big, big.

And Republicans were excluded from the House conference committee. We were locked out again. They stripped not only most of the tough provisions—my colleague from Wyoming is one of the conferees; he will be speaking and he can tell you what happened. We took out many of the tough provisions, and then we just put in this grab bag—anything you want, you can have it, if you are of the right party and you are a liberal and you want to spend somebody else's money and you want to add $13 billion to the deficit.

Well, we tried to stop it over here. Came close, but a few Republicans slipped away. We wanted to take another $5 billion out of it and put back some of the tougher provisions. We did not think we were being unreasonable to say this: if somebody sells drugs to a minor—your child—that person ought to get a tougher minimum sentence. If somebody engages a minor to sell drugs to other minors, that person ought to get a tougher minimum sentence. That is what we were talking about. And if you use a gun in the commission of a crime, you ought to get a tougher mandatory sentence.

One of those provisions was on dealing with illegal aliens with criminal records. And, again, I will defer to my colleague from Wyoming, who included that in the bill, which I think will become law.

So we want to change our criminal justice system for the better. And we are prepared, as we were prepared this year, to do that. We want to take out some of that spending we authorized last year, so that somebody does not get stuck in 10 or 15 years having to pay for it, somebody's children or grandchildren. It has no relationship to crime; nothing to do with fighting crime in almost every case.

Where it was related to fighting crime, we said, "OK, leave the money in there. Leave it in." Drug treatment in Federal prisons, leave it in there. Drug treatment in State prisons, leave it in there.

Another thing we ought to have done last year was to restore some sanity to our product liability and tort system, a system which increases costs and frustration for average Americans, while increasing lucrative fees for trial lawyers. In fact, product liability and personal injury cases costs the U.S. economy a staggering $130 billion—that is with a "B"—annually in litigation costs and higher insurance premiums. That amounts to $1,000 per household.

We have tried to reform this for years. We have led the fight on this side of the aisle. We keep running into blocks constructed by Democrats and the American trial lawyers.

There was a Democratic filibuster, which I did not read about in the liberal press. They run this place, the liberal press. They try to tell you what to think and when to think. They did not really think about the filibuster that happened when they are trying to block something. But if the Republicans are blocking, we would be accused of gridlock, obstructionism, all those other things. And sometimes I think a little gridlock is fine.

So the point is that we have been fighting for tort reform, we are going to continue to fight for it, and we hope we can make improvements next year.

We would like to reform our campaign finance system, too. The Republican legislation banned political action committees. Period. Political action committees could give you zero dollars; not $5,000, not $10,000, zero dollars.

We also provided what we call seed money for challengers and to help clean up the so-called soft money donations that are never reported. And we did not do as our colleagues did, require taxpayers to fund campaigns.

Not many taxpayers in my State rush up to me and say, "Boy, I wish the taxpayers could pay for your campaign for the U.S. Senate." It does not happen a lot in Kansas. We do not think it ought to happen. Period.

I have been a Presidential candidate. I have accepted public funding. I can tell you it took 5 years for the Federal Elections Commission to audit my records. They still have not audited the books on when President Bush ran against Michael Dukakis. If we start financing every congressional race and Senate race, the FEC, the Federal Elections Commission, is going to be bigger than the Pentagon. They are going to have more lawyers, more bureaucrats, more accountants spending more of your tax dollars. So I do not think it is a very good idea. So we hope we can do that too.

My view is, if we are going to have congressional campaign reform, let us be honest about it. If Republicans are in charge, we are going to try to fix it so it helps us. I do not see anything wrong with that. That is the way it works. If the Democrats are in charge, as they are right now, they try to fix it to help them. I do not see anything wrong with that. That is the way it works.

We are going to have to appoint a nonpartisan commission of people outside the Congress, outside the beltway, who have no interest in this place, but they understand how campaigns are financed. Let them make recommendations and then we vote those recommendations up or down. It will not be a Democratic group. It will not be a Republican group. It will be a nonpartisan group of experts who will take a look at campaign financing and tell us how to do it. So we believe that we should do that.

We also think we ought to reform what we do around here. We ought to simplify the budget process. We ought to limit Member's committee assignments. We ought to reduce the congressional staff.

We ought to end proxy voting in committees. If you are not there, you cannot vote.

And we ought to have a line-item veto for the President.

Senator DOMENICI of New Mexico tried that. We brought a bill to the floor. In fact, it was up here just a few days ago. Again, I did not read about it in the paper, but it was the Democrats who obstructed that bill. Only eight Republicans voted against it. The rest of the votes against it came from the other side of the aisle. I did not read about it in the liberal press. I guess they were off that day.

Finally, I think we would say this. What we want is an unchanging commitment to leadership. If there is one thing that did not need changing in January 1993, it was the worldwide respect for American leadership. But that has changed too, unfortunately—and I think it is very important. I think it is fair to say when President Clinton took office, America's credibility and America's reputation for leadership was at an all-time high. During the Reagan and Bush administrations, the Soviet Union fell apart, Germany was peacefully reunited, Saddam Hussein's landgrab in the Persian Gulf was reversed. In short, American leadership and resolve were second to none.

It is also well to point out that during that period, 500 million people—500 million people—in the former Soviet Union and in Eastern Europe got a little taste of freedom they had not had in 70 years. A little taste of freedom: The right to travel, the right to vote, the right to telephone, the right to go to church—basic rights that we take for granted. That is because of leadership. That goes back to President Carter and President Ford.

Do not misunderstand me. It has been a line of leadership, including Republican and Democratic Presidents, that made all this possible. But now I sense there is no resolve, when we try to characterize American foreign policy. Take a look at Somalia. It started off as a good mission—humanitarian. We saved probably hundreds of thousands of lives. Then the United Nations said, "Oh, we have to get you into nation-building," which means we have to spend a lot of U.S. money again to rebuild a nation.

The warlords in Somalia had a different view. And the end result one day was that 18 Americans were killed. And we left.

Then you look at what is happening in Haiti. When Ronald Reagan was President we were trying to get democracy in El Salvador. We were told by my colleagues on the other side of the aisle—in fact it was in the law—you could never have more than 55 Americans, 55. There are 100 of us. You could have about half of this body and that is all. They could be observers in El Salvador. We were trying to help democracy. Today El Salvador is a democratic country, thank you.

In Haiti—we have 20,000 Americans in Haiti in uniform. We are occupying Haiti. There is no national interest there. There were no American lives threatened there until our soldiers got there, and they are in danger. And we say, bring them home. My view is the day Aristide steps foot into Haiti we ought to step out. Restore Aristide, get him back there, and then let them worry about it. How long do we have to occupy Haiti? Is it going to cost $1 billion, as I read in one of the papers? $1 billion?

Then you look at Bosnia, where candidate Clinton said, "I want air strikes and I want to lift the arms embargo." That was candidate Clinton.

We have had a bipartisan group here for the last year and a half, trying to get the President to take the lead on lifting the arms embargo. Bosnia is an independent nation. They are a member of the United Nations. They have a right to self-defense under article 57. What have we done? We have done

nothing, and 200,000 innocent women and children have been killed in this Moslem country of Bosnia. I am not suggesting we send any Americans there. I am not even saying we do the air strikes. But I am saying lift the arms embargo, let them defend themselves—which I thought was sort of a basic right in America, the right of self-defense.

I just mentioned about North Korea. All these countries have become synonyms for American foreign policies: Flip-flops, indecision, and confusion.

I do not think the United Nations ought to call the shots. We did not elect anybody to the United Nations to call the shots where Americans are going to risk their lives, Americans in uniform. That is a decision we ought to make, the Congress ought to make, and the President should have come to Congress before he went to Haiti. But he said no.

President Bush came to Congress before the gulf, or during the gulf. He rolled the dice. And not a single member of the Democratic leadership supported President Bush in the House or the Senate. But fortunately, again, there were 11 Democrats out of 56 who stood up and said, wait a minute, America is a lot more important than politics. So President Bush won by a narrow margin.

I think we ought to end the immoral and illegal arms embargo on Bosnia. And while we sought U.N. approval going to Haiti, what happened to seeking the approval of the American people and the American Congress? Why did we not do that?

So I think in order to put the brakes on the Administration's drive toward U.N. domination of U.S. foreign policy, Congress stepped in earlier this year and passed what we call the Peace Powers Act, because we think before we start committing young men around the globe from any State in this Nation—young men and women, your sons, your daughters, whatever—Congress ought to have some voice, not the United Nations, not the United Nations alone.

At the same time, there are many areas in foreign policy where we have worked very closely with President Clinton. One thing we did was repeal a lot of outdated legislation that affected the former Soviet Union. We worked together in the Middle East and South Africa. We worked together on providing assistance to support development in each of these areas. We had broad bipartisan support.

As the 103d Congress comes to a close, the military occupation of Haiti dominates the concern about American direction of foreign policy. And one of the first orders of business for the 104th Congress will be paying for the occupation of Haiti. This is a time when we are canceling military exercises and military readiness is declining and units are being retired. And we embarked on this very costly mission. Many people who are experts—I am not an expert—say we are going to return to a hollow force. That was even before this ill-considered venture in Haiti.

A top priority in the next Congress must be to stop the raid on our defense budget. Over the unanimous objections of Republicans in the Congress, President Clinton pushed through a massive defense cut of $127 billion as part of the budget package. That is where most of the savings came from. Oh, we ought to cut defense. We should cut defense. But as Gen. Colin Powell said, it ought to be done in some orderly way so we do not compromise our security or compromise what may happen.

What would happen now if we had to move in the gulf? If Saddam Hussein is serious and goes into Kuwait, what is going to happen? Who is going to be asked to respond? We know we are. And can we do it? Do we have the potential? Do we have the capability? Or have we gone too far with defense cuts?

Let us just assume that when that is happening, something happens in North Korea. Then what happens? I think we would be stretched too far. So we better be ready to look down the road before we continue dismantling our force structure.

We have taken a lot of money out of defense and put it into social programs—billions of dollars. Maybe that is great if you have surplus money. The last time I checked the most important thing in the world was freedom, liberty. And we have to be prepared. There is nobody else out there but us. So it is very important. And once we lose the industrial base—we have lost thousands, 5,000, 100,000, 200,000 jobs in California, for example. We are losing them all across the country.

Defense was never meant to be a jobs program; do not misunderstand me. But freedom and liberty was part of that equation.

So we are going to support the President. We only have one Commander in Chief and we will support the Commander in Chief just as we support the troops in Haiti. We are for them 100 percent. We do not think they ought to be there, but we are for them 100 percent. So we are going to do what we can in the next Congress to increase our readiness and our credibility.

I want to close—because I like all the people in the liberal press—most—well, I guess all of them. I do not think they fool many people in America. But I just looked at a survey of how the network news report on various Members of Congress.

The report was whether the media is tougher on Presidents or tougher on Congress. They concluded they are tougher on Congress. The media is tougher on Congress.

But what did not surprise me, because I know most of the people in the media—they are all fine people—if I go up in the press gallery, if I see a conservative up there, I do not know how they got in. Just came in accidentally, I guess. So they are about 50 to 1.

So I read through this survey. I said, "Well, let's see. Senator MITCHELL, when he is on the nightly news, 90 percent of the time," and he is a very effective leader and a friend of mine, "it is very positive, it is a positive presentation of whatever he says."

I am the Republican leader. Sixty-eight percent of the time I am on the news, it is negative. I do not know that I am that negative a person, but I am a Republican, and I am a conservative, and I do not agree with all the things President Clinton agrees with, so I think I am portrayed—well, "it has to be negative, he is a Republican." We will handle that all right.

But I want to address these charges of obstruction and gridlock because, again, the liberal media has overused terms in modern American political lexicon, and the one most overused is the term is "gridlock," followed closely by "obstruction" and by "filibuster." Simply throwing these charges around, in my view, does not mean anything. Let us take a look at the record.

First of all, we believe our opposition has been motivated not by politics but by honest differences in philosophy, just as any two people in this Chamber can have differences on something. We make no apologies for parking in the political intersection, if we have to park in the political intersection to protect the American taxpayers from bad legislation. The President, just yesterday, was talking about obstructionism and gridlock in his press conference, and blaming the Republicans, again, for everything bad, and taking credit for everything good.

The fact is, even though our colleagues say we try to hide behind this gridlock smokescreen, crime obstruction, trying to cloud important policy as the reasons for our opposition, the fact is, the other party can hardly wait to turn on the filibuster smoke machine.

The record shows the distinguished majority leader filed at least 29 cloture motions on or before the first day of debate on a bill or nomination. How can you have a filibuster before the bill is up, or on the first day the bill is up? These are called preemptive cloture motions.

The other party then claims that Republicans are engaged in a filibuster and, of course, the New York Times, the Washington Post —they agree with everything that comes from the other side—so they buy right into it, and you read it in the morning's paper, even though there has been no debate, no votes, no filibuster.

If you believe some of the rhetoric in this town, you would think a couple

hundred bills were filibustered every year. Let me just tell you how many there have been. You can count them on one hand.

Everyone remembers the demise of the so-called economic stimulus package. But the fact is only four bills have died in this Congress by the failure to invoke cloture. That means we could not shut off debate. It takes 60 votes to shut off debate. If you cannot shut off debate, you cannot pass the bill. If you read the New York Times every day, or the Washington Post every day, or the L.A. Times every day, or the Miami Herald every day, or all the big liberal newspapers, you would think every day somebody was on this floor with a filibuster.

I will tell you what has happened on the filibuster. A filibuster worked on what we called the striker replacement bill. Republicans were joined by six Democrats. We could not have done it by ourselves. The so-called campaign finance reform bill, which I talked about earlier, again, six Democrats joined with Republicans. The lobbying bill which said, in effect, if you are grassroots people out there, not high-powered lobbyists, you cannot come together and assemble and raise money to petition Congress if you hire a lobbyist without all kinds of reporting and bureaucracy. We said, "Wait a minute, we don't want that." The Farm Bureau did not want that. The Christian Coalition did not want that. The ACLU did not want that. Liberals and conservatives all across America said, "Wait a minute, you're trying to stifle our access to Congress, our right to petition Congress, which is in the Constitution." So we said no, and we were joined by 10 Democrats.

Now on the product liability, when the trial lawyers come in and write big checks and they gave $3 million at least to the Clinton campaign in 1992, we thought we ought to try to reduce this $1,000 per household cost and increased premiums and excessive awards, so we wanted to change product liability. But that was a Democratic filibuster, which I do not think I read much about. Thirty-eight Republicans voted to end that debate. We fell victim to a Democratic filibuster. Let me repeat, a Democratic filibuster.

And on the crime bill, Republicans were also accused of resorting to what some called "an extraordinary tactic, a technicality, the budget point of order."

We raised a budget point of order because we wanted to improve the bill. Again, the liberal press said, "Oh, this is terrible, these Republicans are terrible. Why, they should not do this."

Let me tell you, this little technical point of order has been raised eight times by the Republicans this session, and you would think by all the reports, never by the Democrats. Eight times by us, and 27 times by the Democrats. But I did not read that in the New York Times or the Washington Post or the L.A. Times or the Miami Herald. No, no. They only go after Republicans. I do not remember them being called obstructionists.

Finally, I will say this: I do not think you measure Congress based on the number of bills we pass. We passed over 800 bills this year in Congress. We could not do that if we did not have cooperation.

For a number of reasons, a lot of bills do not pass. When I was the majority leader, there were 177 bills that did not pass. Again, I do not remember reading in the New York Times or the Washington Post or the L.A. Times or the Miami Herald how terrible that was.

Gridlock is a two-way street. Again, when you have the majority, you do not need to talk because you just do not bring up the bills. If you control the place, you decide what comes up. You control all the committees, you decide what gets reported out of committees. You do not need to filibuster anything. You just do not let it happen. Maybe we will find out how that works next year. We are counting on it.

If you do not call up Republican proposals, that is sort of a stealth filibuster. Nobody ever sees it, but you never bring it up. I do not think anybody ought to hope for the day we vote 100 to 0 on everything around here. If we voted 100 to 0 on everything, we would be in sad shape. We have to have diversity. We have to have different views. Sometimes it will be based on geography. Democrats and Republicans from the Midwest are from both parties. If it is of interest to us, we stand together, we block it because we are trying to protect our States. That is what we got elected for. We are not rubber stamps.

As I have said many times before, the distinguished majority leader, my friend, had one of the best quotes I ever read. When President Bush was trying to get some of his program passed, my friend, Senator MITCHELL, said, and I quote, it is in the RECORD:

> Do we live in a monarchy? Is the President a president or is he a king? Are we required by some law to accept whatever the President proposes without any opportunity for discussion, debate or suggestion of constructive alternatives? And if we so disagree with some aspects of the President's plan, if we believe it truly and sincerely harmful to the long-range interest of the country, are we somehow obligated to stand silent and adopt the President's plan lest we be accused of partisanship?

That says it all. I could not say it any better myself. He said it all, right there. We are not rubber stamps. The Congress is not a rubber stamp for any President, Republican or Democrat.

So the ultimate judges of this record of Congress will be the American people. They will decide whether or not we have changed America for the better. They will decide whether we have America moving in the right direction.

When President Clinton took office, 47 percent of the American people believed our country was headed in the right direction, and only 27 percent said we were going in the wrong direction. Now 70 percent say we are going in the wrong direction and only 20 percent say we are going in the right direction.

So I think that is where we are as we conclude this Congress.

The American people are the ultimate judges. They are pretty sophisticated. They make good decisions. And they are going to decide the fate of a lot of people November 8, 1994—Republicans, Democrats, independents, Perot supporters, whatever it is. But I would just say that we are committed, whether we are in the majority or the minority the next session, the 104th session of Congress, we are committed to these general basic principles: Less Government, less taxes, more freedom, and more opportunity, and also committed to tackling the status quo and trying to change America for the better.

Changing America for the better is not always trying to spend more money than somebody else or raise taxes more than somebody else. We have got to go back to individual responsibilities and values and all the things we have talked about, everybody has talked about on both sides of the aisle. It is not easy, and it is not going to be done in 1 year, 2 years or maybe 10 years, but we have to start in that direction.

IRAQI TROOP MOVEMENTS

Mr. DOLE. Mr. President, I mentioned briefly about what may be happening in Iraq, and I do not know for certain, but I would just like to say that all Americans stand behind President Clinton in his message to Saddam Hussein. As Secretary Perry said earlier today, the United States cannot afford to assume Iraqi troop movements in Iraq are a bluff.

Iraq misread the United States and the world community when it invaded Kuwait in 1990. After the punishing lesson of Desert Shield and Desert Storm, Iraq should not doubt our resolve in 1994. Intimidation and aggression will not succeed.

I fully support President Clinton's efforts to deter Iraqi aggression against Kuwait and to respond appropriately to Iraqi actions. The message the United States and the world need to send is clear: If Saddam Hussein acts against Kuwait, the world will respond.

At a time when Iraq is lobbying the United Nations for the lifting of sanctions, Saddam Hussein sends his troops to threaten Kuwait once again. Kuwait continues to live in the shadow of Iraqi aggression, and Saddam Hussein still refers to Kuwait as Iraq's 19th province.

There should be no easing or lifting of sanctions until all conditions of U.N.

resolutions are met, including complete compliance on weapons inspections, full recognition of Kuwait, ceasing support for international terrorism, return of all Kuwaiti detainees, an end to Iraqi repression, and compensation for the victims of Iraqi aggression. Anything less would diminish the sacrifice of those who gave their lives in Operation Desert Storm and endanger American strategic interests.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Republican leader suggests the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCOMPLISHMENTS OF THE 103D CONGRESS

Mr. MITCHELL. Mr. President, and Members of the Senate, as the 103d Congress draws to a close, attention to short-term controversies and conflicts overshadows its substantial record of accomplishment. That is a common, if unfortunate, reality. Conflict is more exciting than cooperation, so immediate news takes precedence over enduring achievement.

But service in the Congress requires that we look to the longer view, to the future of our country and the future well-being of American families. The 103d Congress has done this, I believe, effectively. We have produced a significant change in direction to respond to the challenges of a very different world.

Change is never easy or achieved without resistance and opposition. Those comfortable with the status quo naturally seek to preserve their advantages. Change takes courage and the willingness to risk failure. Nothing risked, nothing gained is a fact of human experience, at the individual level and at the national level.

The 103d Congress reflects that. We had some failures but we also had significant successes.

In time and perspective, President Clinton will get the credit he has earned for his leadership, his courage to face change, and the vision of a revived American spirit that his efforts will help produce.

President Clinton took office with a mandate to change the direction of our nation's economy. The deficit reduction and economic growth plan enacted last year has done that. It is by far the most important action the majority in Congress took.

That action has produced real change: After more than a decade of skyrocketing federal deficits, for the first time in 50 years, the federal budget deficit will decline for 3 years in a row.

President Clinton was elected to help bring focus and direction to the government's priorities, and the precondition for achieving that was first to get our economic house in order. The President's budget achieved that result.

America today has a robust economy and a falling unemployment rate. In the past 21 months, 4.6 million jobs have been created, 92 percent of them in the private sector. That is more jobs created than in the prior 5 years of Republican administrations put together. In just the first 9 months of this year, from January through September of 1994, 2½ million jobs were created in the United States—more jobs than were created in the entire 4 years of the Bush administration.

I ask Americans to consider that fact. In just 9 months this year, more jobs were created than in the entire 4 years of the Bush administration. The gross domestic product has grown at an annual rate of 3.67 percent, the highest since Presidents Kennedy and Johnson were in office, almost 30 years ago.

Inflation remains low, now at an annual rate of 2.74 percent, the best performance since the early sixties. That means that the working American's paycheck is not being eroded by higher prices.

A significant accomplishment in the President's economic plan is the broader and much more valuable earned income tax credit. It directly rewards work by giving the hardest working and lowest paid Americans the money to feed and shelter their families, enabling them to rise above the poverty level. Nearly 20 million American families have been rewarded for their work by this credit. It is a real attack on the welfare problem—not a rhetorical attack, a real attack.

With time in perspective, I think this action of the 103d Congress will ultimately be judged to have set the Nation on a new and better economic course.

A significant element of that accomplishment is the work this Congress has done and will do on trade. The passage of the North American Free Trade Agreement last November, and the forthcoming passage of the GATT implementing agreement are both among the most important actions we can take for our Nation's future prosperity. Now for the rest of this decade and into the next century, leadership in world affairs by the United States will increasingly be in the area of international economics. We must be strong militarily, and there is a long history that a strong military and influence in the world requires a strong economy.

America benefits from trade among nations because when we have access to the markets of other countries, American exports can attract buyers around the world. The GATT agreement will be the largest tax cut in this century. It will cut tariffs reciprocally, freeing up money around the world for economic expansion. The primary beneficiaries will be American workers.

This Congress began taking on the task of domestic priorities that have too long been neglected.

With the passage of a balanced, comprehensive, and fully funded crime bill, we took the first step to restore security to American life. The crime bill that passed this year provides for more police, more prisons, and more and better crime prevention programs.

It is cheaper to place young people on the path to a law-abiding life than it is to jail them after they have already gone wrong. The crime bill will give our States and cities the help they need to expand successful programs of crime prevention and drug treatment to keep young citizens from becoming young criminals.

The prison funds will give our States the money they need to operate prisons already built, will provide funds for additional prison bed construction, and will ask the States to make sure that violent criminals serve their sentences fully.

The police funding will finance assistance to States and cities to put another 100,000 police on our streets to patrol and work with neighborhoods and to turn around the pervasive fear that permits thugs and criminals to terrorize too many neighborhoods.

Two other steps we took in this direction deserve our attention. The Brady bill is now the Brady law. In its first 100 days of operation nationwide, 57,332 people who were legally ineligible to purchase handguns were prevented from doing so by the operation of this law.

The assault weapons ban in this year's crime bill will not infringe on the rights of law-abiding sportsmen or citizens, but it will begin to curb the arms race in our inner cities. When our police are outgunned by young hoodlums, Americans demand that we take action. This Congress listened and acted.

There is no more important building block for America's future than the education and training our children get to meet the challenges of the global economy in the 21st century.

The education initiatives enacted during this Congress are vitally important to our Nation's future. Millions of Americans will benefit, from children in Head Start to those entering the work force or pursuing a college degree. Because most of these initiatives passed with broad bipartisan support, they did not receive the attention that I believe they deserve.

We reauthorized the Head Start Program, which helps children start school ready to learn, and we expanded it for younger children at critical ages of development.

The Goals 2000: Educate America Act helps local schools implement their

own school reform programs and encourages the development of voluntary standards.

The Elementary and Secondary Education Act, approved just this week, puts control of Federal education aid into the hands of teachers, parents, and administrators, who can best determine how to use it most effectively.

The School-to-Work Opportunities Act helps students make the transition from high school to the workplace through the support of apprenticeship programs and public-private partnerships with business.

We passed the Student Loan Reform Act, which expands the student loan program, putting higher education and the opportunities it can bring into the reach of millions of Americans.

This Congress passed one of President Clinton's highest priorities, the National Community Service Program, a domestic Peace Corps that builds on America's long tradition of individual service to others. Nationwide, some 20,000 individuals are expected to participate in community service projects. In exchange for their service, they can earn up to $9,500 to help pay for college or job training.

In my home State of Maine, new AmeriCorps members have begun work on projects such as building recreational trails in State parks, operating a recycling center, and helping troubled young people. These and other community service projects throughout the country will teach participants valuable trade skills, good work habits, and lessons in leadership and civic responsibility. They will learn firsthand how getting involved can make a difference in their lives and the lives of others and their communities.

Early in the 103rd Congress, we passed the Family and Medical Leave Act, so that people will not have to choose between their jobs and their families' health. The National Voter Registration Act, known as the "motor-voter" bill, will make it easier for working men and women to register to vote. These initiatives affect millions of Americans from all walks of life.

Last year, we reformed the Hatch Act so that millions of Federal workers can now participate more fully in the political process.

A look around the globe reveals that the United States' relations with its most important partners have never been better. President Clinton deserves most of the credit for this.

He has managed our relationships with Russia, with Japan, and the countries of Western Europe soundly in a time of uncertainty and the social and economic turbulence that followed in the wake of the collapse of communism.

Longstanding conflicts in areas like Northern Ireland, South Africa, and the Middle East, which for decades had seemed intractable, are now on the path to resolution.

The end of the bipolar contest between the free world and the former Communist world has not produced a world without tribal conflict or political evil. They remain. Indeed, shorn of that defining contest, relations among former allies as well as adversaries are going through a period of change and reevaluation. It is bound to be a confused and unsettling period.

The past year was not as productive as many of us hoped it would be. But I would be much more disappointed with myself and my Democratic colleagues if we had not at least made the effort. Those who seek reform and change risk failure. But it is far better to fail in trying than not to even make the attempt.

Both the House and Senate passed substantive campaign finance reform bills, but we were unable to overcome the Republican filibuster in the Senate which blocked final consideration of a bill.

The way the congressional campaigns are financed must be changed. They are too long and too expensive. True campaign finance reform will contain spending limits and help to even the playing field so that challengers will no longer be hopelessly outspent by incumbents. For the good of our Nation and for the good of Congress I hope substantive campaign finance reform legislation will be enacted in the next Congress.

I regret that Republican obstruction also prevented Senate passage of many other reform efforts. We are unable to complete action on a congressional compliance bill which would have brought congressional employees under the same employment protection as private sector workers.

The American people believe that Members of Congress are more responsive to moneyed special interests than to ordinary citizens. The lobbying disclosure and gift ban legislation, which was killed by a Republican filibuster after being passed with 95 votes in its favor, would have required registration and disclosure and would have limited the gifts of travel and entertainment to Members which feed the public perception that Congress is out of touch with ordinary working people.

My greatest legislative disappointment is the failure to pass comprehensive health care reform. It is an issue on which I have worked since I came to the Senate nearly 15 years ago and about which I care deeply. More importantly, it is an issue that affects the daily lives of every single American.

The President deserves enormous credit for making health care reform a high priority. Many Members of Congress, mostly Democrats and some courageous Republicans, devoted thousands of hours to develop serious health care reform proposals.

Those who opposed health care reform may have avoided casting votes this year, but they will be unable to avoid the reality of the growing health care crisis in our country. It is a crisis of cost and a crisis of justice. I can say with certainty that major health care reform will someday happen; it must happen.

The budget numbers alone are striking: Today, Federal spending on health care through Medicare and Medicaid is less than half of the discretionary budget. By the year 2004, 10 years from now, spending on Medicare and Medicaid will exceed all discretionary spending. Let me repeat that. In the year 2004, we will spend more money on Medicare and Medicaid than on every other domestic discretionary program—defense, all international programs, all defense programs combined.

Unlike the cycles of the national economy, there is no self-correcting mechanism to reverse escalating health care costs. There must be a coherent national framework to help contain health care costs, to ensure that health insurance is affordable and is there when it is needed.

I repeat what I have said literally hundreds of times before: I believe that in a democratic society, the right to good health care is a fundamental right of every citizen. I regret that I was unable to see that right secured during my tenure in the U.S. Senate. I hope and believe that it will happen soon.

The disappointments of recent months are real, but the accomplishments of the 103d Congress outweigh them. We may have a substantial difference in the economic direction for the better—more jobs, lower inflation, declining deficits—than the country has seen in a dozen years.

We have begun to address the issues of combining a sound family life with the demands of the workplace. We have significantly broadened the ability of all Americans to register and vote. And we took on the task of the future: improving our education system so that our children will be prepared for the 21st century.

Long after the 103d Congress has ended, the laws enacted in that Congress will have a positive effect on the lives of Americans. That is our legacy, and I take pride in it.

Mr. President, that was my prepared statement. I had intended to make no further statements, but I feel I have no choice but to respond to some of the comments made earlier with respect to President Clinton and some of the measures which were before the Senate. I will attempt to do so as briefly and as factually as I can because I think it is necessary that the record be set straight. I do not intend to here redebate all of the bills and issues which were before this Congress, but I think some of the statements made require a response.

First, the crime bill. Once again we heard the argument made by our Republican colleagues that they opposed the crime bill in the end because there was too much spending in it. Everyone should understand that when the crime bill was before the Senate, it passed by a vote of 95 to 4; 42 of the 44 Republican Senators voted for it.

Then the bill went to conference and came back to the Senate for final action, and our Republican colleagues attempted to defeat that measure. And the argument they used and the argument used again here today was that it was changed in conference and there was too much money in it.

Mr. President, that is not the reason, and it can be demonstrated that that is not the reason by simply looking at the facts. The bill which passed the Senate and which was supported by 42 of the 44 Republican Senators was a 5-year bill. The bill which came back to the Senate after conference and which Republican Senators opposed was a 6-year bill. So therefore, naturally, a 6-year bill has a higher total spending than a 5-year bill. But if you look at the years that are common to both bills, the amount of money in each of those years was higher in the bill which the Republican Senators voted for than in the conference report which they voted against.

I repeat that. The bill they voted for had more money in every year common to both the bill and the conference report than in the conference report which they opposed. So it is obvious it was not the money. It could not have been the money, because they voted for a bill with more money in each of the years common to both the bill and the conference report.

What changed, of course, was the political climate and the simple desire to oppose a bill which they actually voted for so as to deny President Clinton any political benefit at all.

Now, Mr. President, the same thing happened on the bill to reform lobbying disclosure and gifts to Senators. That bill passed the Senate 95 to 2 and 95 to 4 in two separate parts.

And, once again, almost every single one of the Republican Senators voted for the bill.

It then went to conference and was changed. When it came back, they said, "We're going to oppose this because of the changes."

Well, then, Mr. President, to call that bluff, we proposed to take out the changes and presented to the Senate the same bill which they had voted for by a margin of 95 to 2, and they killed that bill.

So it is obvious, once again, it was not the changes that caused them to kill a bill which they have supported. It was, rather, the difference in the political climate and a desire not to pass any bills that might in some way give credit to President Clinton.

I can understand Republican Senators opposing a bill that they do not agree with. We have differences all the time. But when they oppose bills for which they themselves have voted, it is obvious that the purpose is purely political, purely negative, purely obstruction, purely to prevent President Clinton from gaining any political benefit. And that is a very bad commentary.

Now, Mr. President, let me address a couple of the other points raised earlier.

Haiti. We have heard that debated here quite often in the last few days. And there is an almost incredible sadness on the part of our Republican colleagues that things have gone so well in Haiti. They are almost disappointed and feeling gloomy that things have gone so well in Haiti.

Not a single American has been killed as a result of that mission. The illegal dictatorship is leaving office and the democratically elected Government is taking office.

And yet, all we hear is nitpicking, second guessing, carping, crabbing, gloomy faces, all because it is going so well. That is another really sad commentary.

We are told by our Republican colleagues that the President should have come to the Congress and gotten authority before he ordered this action. I agree with that. I think the President should have done so and I told him so.

But the fact is that no President in my lifetime has agreed with me on that—no President, Democrat or Republican.

When President Bush ordered the invasion of Panama without prior congressional approval, an operation in which more than 20 Americans were killed, Republican Senators did not complain. They cheered. They did not say the President should have come up here for authority. They said the President did not need authority. They did not second guess and nitpick, carp, and crab. They praised and cheered.

When President Reagan ordered the invasion of Grenada without prior congressional approval, in which Americans were also killed, tragically and unfortunately, they did not say the President should have come up here and gotten authority. They said he did not need the authority. They did not nitpick, and second-guess, and carp, and crab. They cheered.

And now, an operation is going well, and what is their reaction? A bunch of gloomy Guses, almost sad that things have gone so well. That is sad.

Now, Mr. President, campaign finance reform. Once again the charge made is "taxpayer financing," even though the bill was explicit that not one penny of general taxpayer funding was involuntarily. If a person wanted to voluntarily check off on his tax return that he wants the money to go into it, he or she can do so. If he does not, he does not contribute a penny to it. And yet the statement is made again and again—erroneously, mistakenly—"taxpayer financing." The record must be set straight. It is not.

Health care. Over and over again, Mr. President, the allegation was made that the President's plan was for a Government-controlled health care system; too much government, we are told by our Republican colleagues over and over and over again, and, I must say and acknowledge, skillfully and successfully. But the allegation is false and deserves to be rebutted on two points.

First the plans were not plans for the Government to take over the health care system. My bill, in fact, would have abolished one of the largest Government health care programs, acute care under Medicaid. And 25 million Americans who are now covered under Medicaid would not have continued in their Government program, but would have been in the private health insurance market.

So abolishing the second largest Government health program and having 25 million Americans go in the private insurance market is not a Government takeover of the health insurance system, even though our Republican colleagues keep calling it that.

But there is another even more personal response that ought to be made. Over and over again, they say, Government health insurance is bad for you Americans. You, Mr. and Mrs. America, Government health insurance is bad for you, and we Republicans are proud of the fact that we stopped those nasty Democrats from imposing Government health insurance on you, even as every single one of these Republican Senators is covered by a Government-organized health insurance plan for himself, herself, and their families, and the Government pays 72 percent of the premium cost of their health insurance plan.

When a Republican Senator or a Democratic Senator gets sick, they walk right down the hall of the Capitol here to the Capitol physician's office, where a Government doctor treats them. And if they are really bad off and they need an operation, they go right out here to Bethesda, MD, to a Government hospital, where Government nurses take care of them, and Government doctors operate on them.

So every American ought to ask himself: "Hey, if this Government insurance and this Government health care is so bad for me, as these Republican Senators keep saying it is, how come they insist on having it for themselves and their families?"

Mr. President, what we want to do is to see to it that every single American has access to the same kind of insurance and health care that every Member of this Senate has. That is the democratic way, with a small "d." Why

should people in this body have access to care of the quality and type and finance that other Americans do not have?

So I ask all Americans to ask themselves that question as they ponder health care. Maybe they might even ask one of these Republican Senators, when they come to your town to give a speech against Government health care: "Senator, if it is so bad for me, how come it is so good for you and your family?"

The argument was made that our Republican colleagues favor portability of health insurance; that every person who moves from one place to another or moves from one job to another would keep his health insurance. So that you do not have the terrible situation you now have, where if people move from one State to another, or change jobs, they lose their health insurance. And every month, more than 100,000 Americans lose their health insurance and large numbers of Americans are without health insurance for substantial periods of time.

But, Mr. President, the only way you can have portability and complete transferability of insurance from one place to another is you have a standard policy. You have to have a standard benefits package, otherwise it is impossible to have portability. And our Republican colleagues are all against the standard benefits package. And I think that really is a metaphor for their approach on health care.

They are for the objective, they are just against what it takes to get to the objective. So they can claim they are for these good things for Americans, even as they oppose the ways in which Americans will get them.

Finally, I want to comment on the subject of obstructionism and filibusters. The statement was made that on 29 occasions I filed motions to end filibusters before the debate had begun. But let me say here now, I filed motions to end filibusters only after I was explicitly told—either by the Republican leader or some other Senator—that there would be a filibuster, and that a motion to end the filibuster would be necessary.

I repeat that. Every single time such motions were filed, I had previously been told explicitly—by the Republican leader or some other Senator—that a filibuster would occur and a motion to end it would be necessary.

Let us look at this question of filibusters. In the entire 19th century, a period of 100 years, in this U.S. Senate there were a total of 16 filibusters. That is about once every 6½ years. For most of this century, filibusters occurred in the Senate fewer than once a year—fewer than once a year.

In this Congress alone in this Senate, motions to end filibusters were filed 72 times—72 times.

That does not mean there were 72 filibusters because, as every Senator knows, we frequently have to file more than one motion on an issue when we are unsuccessful the first or the second or the third time, but it gives you some indication of what has occurred. And I think nothing better makes the point than, going into this, the final day of this session, we had before us in the Senate four filibusters. And on each one of them the motion to end it was filed only after I was explicitly told—in this case I insisted that it be right out here on the record—by Republican Senators that it would be necessary to do it.

So I want to make clear my belief that there has been an unprecedented use of the filibuster and obstructionist tactics. It is true that if some Senator stays here long enough, he or she will participate in a filibuster. For most of us, it has been once or maybe twice in 10 or 15 years, somewhat consistent with the historical average. But when you have the number, the frequency of filibusters, even the subjects—here we had filibusters today on whether we are going to promote an Air Force colonel to be a general. And we had to file a motion to end the filibuster on that. And that was filed only after I was told publicly here and on the record it would be necessary, otherwise we would not be able to get to it.

What once was reserved by common consent and restraint to issues that were of grave national importance and really were not partisan in any way, has become an everyday mechanism in the Senate. I regret that and I think Senators in the future are going to regret it. If this number keeps spiraling upward as it has in recent years, from once every 6½ years in the last century to less than once a year early in this century to 20, then 30, then 40, now 70 times in a Congress, it is going to be extremely difficult for whoever is running the Senate—and someday that is going to be Republicans. I do not think it is going to be next year, but certainly we know that at some point in our history—we do not know when—Republicans will be in control of the Senate again. When that happens I think they will regret the consequences of the actions taken during this session.

Mr. President, as I said, I had intended only to make my prepared statement. I make these comments merely to respond to those points raised earlier and to do what I believe is necessary to have a balanced presentation on those issues.

I want to conclude by repeating what I said, that in our society the reality is, whether we like it or not, that controversy and conflict are given prominence, and substantive accomplishment is ignored if it is not controversial or sensational. I think much of the controversy has been given a lot of attention and created the impression that there was not any action in this Congress when in fact there was plenty of it and plenty of it that will be beneficial for years to come. And I hope that with the benefit of time and perspective, Americans will come to realize that.

Mr. President, I note the presence of my colleague from Arkansas on the floor. I accordingly yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Arkansas is recognized.

HEALTH CARE

Mr. BUMPERS. Mr. President, let me just say that this is an opportunity for me, even though we will be back in session in December, to say that you have just seen a dramatic demonstration of why we are going to miss Senator MITCHELL as our majority leader so badly. He has acquitted himself, in the 6 years he has been in this position, in an exemplary way. I was proud of him because I am a Democrat. But I was also proud of him because he always, unfailingly, represented the U.S. Senate in a most dignified and fair-minded way.

I have heard Senator DOLE, the Republican leader in the Senate, say many times that, though he and Senator MITCHELL have had many differences, he had never found Senator MITCHELL to be anything but manifestly fair in his dealings with the Republicans in this body. The past few weeks, particularly the past 3 weeks, have been unprecedented in my 20 years in the U.S. Senate. This is the end of my 10th Congress, my 20th session, and I have never witnessed anything like the virtual hysteria that has gone on here, to try to kill good legislation.

Yesterday the President held a press conference. I thought it was easily the most brilliant press conference certainly he has ever held. But, more important, as I watched him answer very difficult questions—some designed to trap him, some designed to make him answer in a way that he would not want to answer—without exception he faced each question with honesty, a great deal of intelligence and straightforwardness. And even his demeanor was exemplary.

He was gracious to the Republicans, saying not only had he worked with them on health care reform, and cataloged all of the things the majority leader just said, but he also said: "I still look forward to working with the Republicans next year."

And as I watched that, Mr. President, I thought, how long has it been since you have seen a President respond as intelligently and with as much information and knowledge at his fingertips to justify his answers, how long has it been since you have seen a President

stand on his two legs and demonstrate the kind of knowledge and understanding of the problems of this country in as articulate a manner as Bill Clinton did yesterday? Not since Jack Kennedy and maybe not since Franklin Roosevelt.

So what is it that is so offensive about him to the American people that keeps his approval rating so low? There are probably as many answers as there are people you might ask. But when you look back at the past 2 years and you think about all of his accomplishments you have to be impressed. For instance, we passed the Family and Medical Leave Act for people so they can stay home with a sick child or a dying parent and not be fired. Almost 30 years ago when I had my own law practice in South Franklin County, AR, my daughter developed what we thought was a terminal illness. Fortunately, we happened to have a pediatrician with enough sense to get us to the best neurosurgeon in the world at Boston Children's Hospital.

On numerous occasions Betty and I spoke about the fact that when I went back home, after 6 weeks in Boston with my daughter, I did not have to worry about whether somebody had fired me while I was gone because I was my own boss. I just went back into my office and started practicing law again.

I asked Betty a number of times, "What do the poor people do?" First of all, most of them could not buy an airplane ticket to Boston, let alone pay a hotel bill and a mammoth hospital and doctor bill.

How many people in America would be lucky enough to get their daughter to Boston in the hands of the best neurosurgeon in the world? Very, very few and certainly very few country lawyers in towns of 1,000 people from Arkansas.

But most of them would find themselves without a job when they got home because they worked for somebody else. And so the Family and Medical Leave Act provides some comfort, some peace of mind for people. I am proud to have strongly supported it.

And student loans. We reformed the student loan program so more and more children can go to college, and we passed the national service bill so they can have an easier time paying off those loans. I am a product of the GI bill. I went to the University of Arkansas and Northwestern University Law School and the taxpayers paid every dime of it. My brother got out of the Army the same year I got out of the Marine Corps. He went to the University of Arkansas, and Harvard Law School, and the taxpayers picked up every dime of it. He feels terribly put upon about the deficit reduction bill we passed last year because he is fairly well to do. He probably paid more in taxes last year than he probably thought he would make when he got out of law school.

So was it good for the people to improve student loans and improve the educational quality of this Nation and give people a chance to educate their children as Bill Clinton has done? The answer is in the question. In addition the President has tried to make certain that every child in America—not just 50 percent—but every child in America gets Head Start—a people program—and an apprentice program to try to ease the transition from school into jobs, oftentimes for children, youngsters who are not going to college. Does anybody want to repeal that, to give people the skill to hold down a job when they get out of school? In addition, we have removed 87,000 employees from the Federal payroll to try to reduce the size of Government in the past year. Mr. President, did you know that the Government is as small right now as it was when Jack Kennedy was President? How many people across America do you think would believe that? There are now 87,000 fewer employees than when Bill Clinton was inaugurated. I do not want to be pejorative about this, but in the first 4 years of Ronald Reagan's administration, who came to town to cut Government, there were 125,000 additional employees in the Defense Department alone. President Clinton has fulfilled a promise that we would reduce the size of Government, who would want to undo that?

And the President has created 4 million jobs in his first two years. However, we still have more to do. One of the reasons the people of the country are in such a foul mood is not because they are not working but because they are not making very much money. I daresay that 50 to 70 percent of the people of this country wake up every morning worried about their house payment, their car payment, the education of their children, their health care, and they do not make enough money to quit worrying. Bill Clinton said during the campaign, and he said it again yesterday, that is our No. 1 problem.

Finally, Mr. President, last August we passed, what is, by far, the biggest deficit reduction package in the history of this country. There are only two ways to reduce the deficit, both of them very unpopular: one is to raise taxes. That is what gets us labeled "tax-and-spend Democrats." Oh, I wish I could come up with all those little slogans to use on the Republicans.

The second option is to cut spending. We did both; $250 billion in new taxes, most of which were on the richest 1.2 percent of the people in this Nation and $250 billion in spending cuts. Most people would not believe this, but spending cuts are almost as unpopular as taxes because you hurt somebody every time you cut spending.

It was projected at the time we passed it that the deficit the next 5 years would be $500 billion less than it would have been if we did nothing. Oh, how many times did I hear those specious arguments about how "you're not balancing the budget, you're going to raise taxes $250 billion, cut spending $250 billion and you're not going to balance the budget."

Well, nobody ever said we would balance the budget. But we said the deficit would be $500 billion less than it would otherwise have been. All of the Republicans are running ads against the people on this side who voted for the defict reduction package—they are saying, "he or she cast the deciding vote," because it was a 50–50 tie." Think about the cynicism, the dishonesty of that. All 50 people over here could not have possibly cast the deciding vote.

But I have said many times, I would not wait for my opponent to bring that argument up. I would bring it up first. I would bring it up because it is the most courageous, significant thing that has happened since I have been in the U.S. Senate—20 years.

How much Republican help did we get to reduce the deficit which, during the Reagan years, was the only subject suitable for debate in this body? Not one; not one Republican. And now, Mr. President, instead of reducing the deficit by $500 billion less than it would otherwise have been, because the economy has been performing so well, it will be reduced by $700 billion.

The deficit that 18 months ago was projected to be $310 billion, at the end of 1993 was $255 billion—$55 billion less than projected.

The deficit projected to be $305 billion on September 30, 1994, will probably end up being almost $100 billion less than the projection before we passed that bill.

And so what happens? Three hundred people running for Congress on the Republican side gather on the steps of the Capitol and announce "Voodoo II: We are going to raise defense spending, cut taxes for the rich, and balance the budget." How are you going to do it? Well, we are going to pass a constitutional amendment to balance the budget.

Now, is that not beautiful? You think of that. You think of the cynicism of that promise of $1 trillion in tax cuts and they cannot tell you anything except they are going to put something in the Constitution which would not take effect for 7 or 8 years.

I voted for the deficit-reduction package and I consider it one of the bravest, most courageous, significant things I have ever done, or that the Congress has ever done.

When it comes to foreign policy, the majority leader has already said all that needs to be said about Haiti. You can only conclude that our friends on the other side of the aisle are gloomy about the fact that that operation has gone much better than even I or he anticipated.

The other day I asked a fairly sophisticated reporter in this town: Why is it you do not like President Clinton? Well, it is his foreign policy. Well, what is it about his foreign policy you do not like? "Well, I am not sure," the reporter responded.

While our successes were numerous, we also had some failures, which will be redressed next year. We did not do welfare reform which everybody in the country is anxiously awaiting. We did not do health care, and the majority leader has said all that needs to be said on that subject. We did not do campaign finance reform because the Republicans prevented the bill from going to conference.

The majority leader very appropriately pointed out that anybody who would not want to contribute to campaigns would not have to. It is a voluntary checkoff on your tax return if you want it. I would be happy to check mine off because I think that nothing is ever going to save this democracy except campaign finance reform. The money chase is unconscionable. It is humiliating. I personally detest it. I hate it worse than anything about this profession, having to go out with your hat in your hand and a tin cup pleading for alms so you can enjoy public service.

We may be the only Nation on Earth, Mr. President, that finances campaigns with anything other than public funds. Yet somehow or other there are enough people who like the advantages that incumbents have, that they are willing to continue to vote against reform.

Mr. President, I would like to take a moment to discuss two really significant failures which I have personally been involved with and that have gotten very little attention around here and which the press just sort of mentions in passing, occasionally. One is mining law reform.

Listen to this. Since the 1872 mining law was passed, we have sold off over 3 million acres of public lands to the mining companies—a chunk of land bigger than the State of Connecticut—for anywhere from $2.50 an acre to $5 an acre. The mining companies, as of this date, have removed $230 billion worth of gold, silver, palladium, platinum, and other hard-rock minerals and have not paid the Federal Government out of that $230 billion one cent in royalties.

We could not change this 122-year-old law because of entrenched interests. I have fought this battle now for 6 years, and we have failed yet again. There is not one Senator in this body who does not know, to an absolute certainty, if this were presented to the American people they would be absolutely repelled by the idea. It is repugnant in the extreme to believe that we continue to allow this to continue.

Just this year, the Secretary of the Interior was required by the court to hand Barrick Resources, a Canadian company, 2,000 acres of land for $10,000, under which lies $11 billion worth of gold, and the United States Government will not get one red cent out of it.

That is not all. They have, over the past 122 years, left one environmental disaster after another. More than 50 mining sites that have been abandoned are on the Superfund national priority list and will cost the taxpayers of America billions and billions of dollars to clean up—and we cannot change the law.

In addition, Mr. President, I have worked for 16 years to reform the way we contract with concessionaires in the national parks. They have given these contracts out as though they were handing them down to their children in their wills.

In 1992, the concessionaires in this country took in about $500 million, and paid the Federal Government in exchange about 3 percent—roughly $15 million out of their proceeds of $500 million.

Finally, after 16 years, we got the bill reported out of the Energy Committee this year, thanks to a really new breed Senator, ROBERT BENNETT from Utah, one of the finest Senators to join this body in a long time, and who joined me in the committee and said, of course, we need to do this. And then we got 90 votes in the Senate.

However, we were prevented from considering the House-Senate compromise because one or two Senators put a hold on the bill: "If you bring it up, I will filibuster it." That is what a hold is.

Everybody knows that we do not have time for filibusters around here in the last few days of the session, so the majority leader could not bring the bill up because we could not afford the time. One Senator called the Cloakroom and says: "Put a hold on Mr. BUMPERS' concessions bill"; and it is dead—dead, dead, dead—and the taxpayers have been swindled once again.

I do not know who the majority leader will be next year, but I say one thing: Be he Democrat or Republican, there is nothing, other than campaign finance reform that needs doing worse than repealing the rule that allows one Senator to bring this place to its knees during the last 3 weeks of a session. Forty, fifty bills out of my Subcommittee on Public Lands, dead because of one or two Senators. That is some democracy around here.

Mr. President, I saw in the paper this morning that the unemployment rate dropped to 5.9 percent. Under the old method of keeping it when Bill Clinton first became President, it would be about 5.4 percent. But even so, that is the lowest unemployment rate in 4 years. The deficit is dropping like a rock. Inflation is about as low as it ever gets. The economy is purring along at about 3½ to 4 percent. But the President's approval rating is low. It is the most contradictory thing I have every witnessed. As a percentage of the gross national product, the deficit is exactly half what it was January 1, 1993—half as a percentage of the gross domestic product.

Mr. President, in this day of communications where television reaches into every home in America, all the talk show hosts make money and get more money in advertising if they can get a bigger viewing audience. The way you get a bigger viewing audience is to keep everyone sitting on the edge of their seat telling all the dire and terrible things going on in Congress.

Elections have become so cynical. I watched a debate the other night. I thought it was absolutely brilliant. One of the candidates said he was opposed to big government. I wanted to say, "Who do you know that favors big government?" He is against deficit spending. But he is not for getting the deficit down with taxes or any spending cuts that he was willing to mention. I think of all of those things about how cynical government is. I said in 1992, if you take TED KENNEDY and liberal out of my opponent's vocabulary, he would have been tongue-tied.

"I am opposed to big government," they say. "He is a tax-and-spend liberal," they say. And the National Rifle Association says he has voted to take your guns away. You bet. You bet. I voted to outlaw those AK–47's and Uzis and all the other assault weapons that ought never to be in the hands of anybody except the police and the military.

So the assault weapons ban, banning the sale of 19 automatic, military weapons that are used to shoot up McDonald's that virtually every lunatic that goes on a shooting spree uses, and the National Rifle Association wants them in the hands of every jail escapee and lunatic who can walk into a gun shop and plunk down the money for one.

So the National Rifle Association, because virtually every Democrat supported the crime bill that would bar the sale of those lethal weapons, is supporting virtually every Republican who is running for the U.S. Senate. You think about 230 million weapons loose in this country; 65 million of them handguns.

Elections have become electronic events carefully calculated to fool 51 percent or more of the people on 1 day every 2 years. I used to do a speech about how you could never get a politician or a public servant to tell you the truth until he is out of office. I wonder what it would have been like if Ike Eisenhower had delivered his military industrial complex speech at his inaugural instead of his going-away party. There is a Senator who is quoted quite often now. He is not here anymore. He

talks about things that would have never been talked about on the floor of the Senate.

I remember when David Jones, who was Chairman of the Joint Chiefs of Staff, did his exit interview. He said, "You expect me to design a force structure to protect the United States when all I can do is referee interservice rivalries. You give the Navy $1 billion, and you have to give the Army $1 billion. If you give the Army $1 billion, you have to give the Air Force $1 billion." He said, "That is all I do, is referee the handing out of the money. There is very little time left to decide what for."

The people say they want term limits. I am on the other side of that issue. It is very popular across the country, and I presume eventually it could happen. I do not have a dog in the fight, really. I will be pushing up daisies before that happens. But I can tell you it is a wrong approach. People grow more cynical. So that only 50 percent of the people bother to vote, and we have become more uncivil as a Nation. And we are more uncivil in this body. I have only been here 20 years. But the personal assaults on one side of this body to the other side, and personal insults, have grown exponentially in the past 8 or 9 years.

Mr. President, let me just conclude by saying I am deeply concerned and very apprehensive about the survival of our democracy but not fatalistic. The parents of this country have a right to believe that the Members of this body care about their children. My father and mother told me a hundred times, "We want you boys to have a better life than we had." And why would not they? They had worked so hard to feed and clothe and house us. My father talked about education every day and how important it was that we get an education. Today parents do not believe their children are going to have a better life than they had. They think it is going to be worse. That is one of the reasons they are upset.

If you read the Washington Post yesterday, you saw one of the reasons, probably the biggest reason, the people are so upset in this Nation; that is, the poor indeed are getting poorer and the rich are getting richer. In the past year, the medium family income has gone down almost $2,000 while for the top 5 percent of the people of this country incomes have gone up 5 percent.

We children were everything to our parents. My father wanted me to go into politics. When I ran for Governor and was elected, I wanted my children, two sons and a daughter, to go into politics. I believed when I went into politics that public service was the noblest of all professions.

Somebody called in to debate the other night and said, "Why would you spend millions and millions of dollars for a job that pays $135,000 a year?" The answer to that is I wish I did not have to do it. I wish that none of us had to do it. But until we change this system, you have no choice. And one of the things the Campaign Finance bill would have done would be to level the playing field between people who have to go out and raise money for people however they can and run against somebody who is willing to spend $10 million or $20 million of their own money. That goes on on both sides of the aisle.

I suspect that at least 50 Members of this body right now are millionaires, and many of them multimillionaires. And that is hardly a microcosm of America. Let me add that some of the very wealthy Members of this body, in my opinion, are the very best Senators. But I am just simply saying the system ought not to permit anybody to buy a seat in Congress—the House or the Senate.

So I do not encourage my children to go into politics. It is not the same. The media is unrelenting. They make it difficult and sometimes impossible to enjoy your work here as a public servant. One of the biggest worries I have is, as some of the best Senators exit this body this year, as they are doing—some of the very best, such as Senator MITCHELL, are leaving and I do not know who will replace them. I am afraid that the best and brightest in this country are going to shun politics for all of the obvious reasons. It just is not worth it.

Well, Mr. President, I talked longer than I intended to, and I am afraid I repeated too much of what the majority leader said. Despite some of the more ominous things I said, I am still bullish on America. Throughout our history the pendulum has swung back and forth, and it has always come back, whether it went way to the left or way to the right. Our job is to make sure the pendulum never swings too far in either direction. Our job is to make sure that every American has a chance, as the majority leader said in a speech downtown the other night.

Is it not ironic, Mr. President, that at a time when people all over the world are scratching and clawing and swimming and getting into styrofoam rafts to go out on the ocean to get to the United States, we are trashing our own Nation as never before?

So I have at least 4 years left on this term, Mr. President. I will do my very best to continue addressing all of these things I have talked about, to fulfill the promise of America, the promise that every man, woman, and child in this country has a right to expect.

I yield the floor, Mr. President.

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The Senator from Mississippi.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMPENSATION OF PERSIAN GULF WAR VETERANS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5244, a bill relating to the compensation of Persian Gulf war veterans, just received from the House; that the bill be deemed read the third time, passed; that the motion to reconsider be laid upon the table, and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5244) was deemed read the third time, and passed.

VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

Mr. ROCKEFELLER. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is considering H.R. 5244, a bill to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with the authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed, disabling health condition, to revise and improve the assessment of the health consequences of service during the Persian Gulf war, and for other purposes. I urge my colleagues to give their unanimous support to H.R. 5244, which has just passed the House in lieu of H.R. 4386, which is currently pending here in the Senate.

The pending measure, H.R. 5244, represents a compromise between the Committees on Veterans' Affairs of the House and the Senate. This measure, which I will refer to as the compromise agreement, incorporates amendments to title 38 and freestanding provisions from: H.R. 4386, which passed the House on August 8, 1994; S. 2330, which the committee reported to the Senate on September 28, 1994; S. 2325 and S. 2094, which the committee reported to the Senate on September 27, 1994; S. 1546, which the Senate passed on March 25, 1994; H.R. 3313 which contained provisions originally reported in S. 1626 and which passed the Senate on June 8, 1994; H. R. 4088 which the House also passed on August 8, 1994; and H.R. 4724, H.R. 4768, and H.R. 4776 which passed the House on August 1, 1994.

SUMMARY

Mr. President, I want to thank my colleagues in the House, especially

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Representatives MONTGOMERY and STUMP, for their prompt consideration and passage of this vitally important measure.

I will at this time summarize the provisions of the bill. Detailed descriptions of all of the provisions are set forth in the explanatory statement, originally written for H.R. 4386, which was developed in cooperation with the House Committee on Veterans' Affairs. My counterpart on the House Committee on Veterans' Affairs, Chairman G.V. "SONNY" MONTGOMERY, inserted the same explanatory statement in the RECORD when the House considered this measure.

Mr. President, the compromise agreement has 12 titles: Persian Gulf War Veterans; Board of Veterans' Appeals Administration; Adjudication Improvements; Veterans' Claims Adjudication Commission; Miscellaneous Provisions; Education and Training Programs; Employment Programs; Cemeteries and Memorial Affairs; Housing Programs; Homeless Veterans Programs; Reductions in Department of Veterans Affairs Personnel; and Technical and Clerical Amendments.

PERSIAN GULF WAR VETERANS

Mr. President, title 1 of the compromise agreement contains provisions that would:

First, set forth specific congressional findings regarding Persian Gulf war veterans.

Second, state the purposes of the compromise bill.

Third, order the Secretary to (a) develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf war veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the gulf war; (b) develop case definitions or diagnoses for such illnesses; and (c) ensure that VA provides the evaluations at as many VA medical centers as possible. In order to make these evaluations as accurate and available as possible, the Secretary would be authorized to contract out these medical examinations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses.

Fourth, require the Secretary to develop and implement a comprehensive outreach program to inform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. The outreach program would include a semiannual newsletter to be prepared in consultation with veterans service organizations, and a toll-free number to provide any other information the Secretary considers appropriate.

Fifth, provide the Secretary with authority to pay compensation to any Persian Gulf war veterans suffering from a disability resulting from an undiagnosed illness that became manifest during active duty or to a degree of 10 percent or more within a period to be determined by the Secretary, and, if the Secretary determines that compensation should be paid to these Persian Gulf war veterans, would require the Secretary to publish proposed regulations under which compensation would be paid.

Sixth, direct VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations and tests for dependents of gulf war veterans. These procedures would be restricted to those dependents whose illnesses, birth defects, or other disorders may be associated with the veterans' service in the gulf war. It would authorize VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities, and to use the data to determine whether gulf war symptoms are being transmitted to family members.

Seventh, clarify that the Persian Gulf War Veterans health registry includes diagnostic tests in its definition of medical examinations.

Eighth, authorize the Secretary of the Department of Veterans Affairs, in coordination with the Secretary of Defense, to carry out a survey of gulf war veterans to gather information about their health problems and the health problems of family members.

Ninth, authorize VA to conduct an epidemiological study or studies of Persian Gulf war veterans if such a study is recommended by the National Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585).

Tenth, amend section 1317 of title 38 to permit surviving spouses eligible to receive dependency and indemnity compensation [DIC] to elect to receive death pension under chapter 15 in lieu of DIC, and provide that, with respect to any cost-of-living adjustment in the rates of compensation and DIC provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

BOARD OF VETERANS' APPEALS ADMINISTRATION

Mr. President, title 2 of the compromise agreement contains provision that would:

First, eliminate term limits for members of the Board of Veterans' Appeals other than the chairman and provide that members of the Board would receive the same basic pay as received by administrative law judges, unless that would result in a reduction in pay.

Second, require the chairman to establish a panel, including the chairman and two other members of the Board, to conduct reviews of the job performance of Board members, establish job performance standards, and conduct reviews of the job performance of Board members within 1 year after the establishment of those job performance standards, and then at least every 3 years thereafter.

Third, specify that if the position of chairman were to become vacant upon the expiration of the chairman's term, the current chairman would be authorized, with the approval of the Secretary, to continue to serve as chairman until the chairman is appointed to another term or a new chairman is appointed (but not beyond the end of the Congress during which the term of office expired).

ADJUDICATION IMPROVEMENTS

Mr. President, title 3 of the compromise agreement contains provisions that would:

First, for purposes of claims for VA benefits, allow the Secretary to accept a written statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member.

Second, allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA disability benefits, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

Third, require the Secretary to take such actions as may be necessary to provide that claims remanded by the Board of Veterans' Appeals to regional offices or by the Court of Veterans Appeals to VA be treated expeditiously.

Fourth, permit the Board to screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes, or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Fifth, require the Secretary to submit to the House and Senate Committees on Veterans' Affairs a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

VETERANS CLAIMS ADJUDICATION COMMISSION

Mr. President, title 4 of the compromise agreement contains provisions that would:

First, establish an independent commission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals.

Second, describe the composition of the commission to be made up of nine members appointed by the Secretary of Veterans Affairs, to include the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members

who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or a similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Third, direct the commission to evaluate the entire adjudication system in order to determine the efficiency of its processes and procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process by examining the VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study.

Fourth, order the Secretary to submit to the commission and the Committees on Veterans' Affairs of the Senate and House of Representatives any information which the chairman of the study has determined necessary to carry out the study within 30 days of the chairman's request for such information.

Fifth, require the commission to present a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Sixth, authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

MISCELLANEOUS BENEFITS-RELATED PROVISIONS

Mr. President, title 5 of the compromise agreement contains provisions that would:

First, clarify that, for the purposes of a presumption of service connection based on exposure to ionizing radiation, participation in atmospheric testing of nuclear devices includes non-U.S. tests.

Second, provide that provisions of law requiring VA to establish a procedure for a particular type of claim may not be construed to prevent the establishment of service connection on a direct basis.

Third, extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Fourth, provide that an application filed for non-service-connected pension or parents' DIC made within 1 year of a renouncement of such benefits will not be treated as an original claim, and benefits will be paid as though the renouncement had not occurred.

Fifth, clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit award only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Sixth, codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma established administratively by the Secretary.

Seventh, exclude payments received from Alaska Native corporations under the Alaska Native Claims Settlement Act from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Eighth, eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Departments of State and Treasury that such restrictions be eliminated.

Ninth, require an evalution of the feasibility of a study of the health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.

Tenth, establish a Center for Minority Veterans and a Center for Women Veterans.

Eleventh, require (a) the Secretary to establish an Advisory Committee for Minority Veterans for a period of 3 years; (b) the committee membership to represent certain groups relating to minority veterans; and (c) the committees to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Twelfth, require that a notice of appeal be deemed received by the court on the date it is postmarked, if it is mailed. Only legible U.S. Postal Service postmarks would be sufficient.

EDUCATION AND TRAINING PROGRAMS

Mr. President, title 6 of the compromise bill contains provisions that would:

First, make permanent the program of vocational flight training available under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Second, authorize the use of Indian reservations for the purposes of section 3115 of title 38, to allow eligible veterans to participate in programs of on-the-job training on Indian reservations.

Third, add to the definition of the term "educational institution," for the purposes of chapters 34 and 36 and as described in section 3452(c), entities which provide training required for completion of any State-approved alternative teacher certification program, as determined by the Secretary.

Fourth, remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Fifth, require that correspondence programs and combination correspondence-residence courses may be approved by State Approving Agencies only if the educational institution is accredited by an entity recognized by the Secretary of Education, and that no less than 50 percent of such courses require a minimum of 6 months to be completed.

Sixth, increase the maximum amount available to State Approving Agencies to $13,000,000 per fiscal year, and eliminate certain reporting and supervision requirements.

Seventh, add chapter 106 of title 10 to the sources of educational and training benefits for which the Secretary will define full- and part-time training.

Eighth, extend the authority for the Veterans' Advisory Committee on Education though December 31, 2003, and make technical changes to the committee's mandate.

Ninth, increase the level of funding available for contract educational and vocational counseling services from $5,000,000 to $6,000,000, effective October 1, 1994.

EMPLOYMENT PROGRAMS

Mr. President, title 7 of the compromise bill contains provisions that would:

First, create the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes and who shall be a veteran.

Second, provide that compensation for disabled veterans' outreach program [DVOP] specialists shall be set at rates comparable to the rates paid to professionals performing essentially similar duties in the State Government of the State in which that specialist is employed.

Third, expand the scope of the biennial study required under section 4110A to include (a) veterans of the Vietnam era who served outside the Vietnam theater of operations; (b) veterans who served after the Vietnam era, (c) veterans discharged or released from active duty within the 4 years prior to the study, and (d) a category for women veterans for each of the classifications of veterans.

Fourth, require Federal contractors to immediately list with the local employment service officer all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less.

Fifth, add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213.

CEMETERIES AND MEMORIAL AFFAIRS

Mr. President, title 8 of the compromise agreement would revise and improve matters relating to the national cemeteries. Specifically, the compromise agreement would:

First, restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Second, restore eligibility for burial in national cemeteries to surviving spouses whose subsequent marriage ended by death or divorce.

Third, extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994, to September 30, 1999.

Fourth, authorize the use of flat grave markers at the Willamette National Cemetery in Oregon.

HOUSING PROGRAMS

Mr. President, title 9 of the compromise bill contains provisions that would:

First, add to the definition of "veteran" persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Second, allow the Secretary to waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

Third, eliminate VA's prohibition against guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

Fourth, allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Fifth, authorize the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Sixth, eliminate VA inspection requirements under section 3712(h)(2)(A), and provide that manufactured housing that is certified to conform to standards under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Seventh, permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's bid at the foreclosure sale might have exceeded that price.

Eighth, add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of a reduction in force.

HOMELESS VETERANS PROGRAMS

Mr. President, title 10 of the compromise agreement would revise and improve programs to assist homeless veterans. Specifically, the compromise agreement would:

First, require VA to submit an annual report on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Second, require that VA complete an assessment of the needs of homeless veterans, as required by Public Law 102-405, report its finding to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually for 3 years.

Third, raise the limit on the number of comprehensive homeless centers that VA may establish from four to eight.

Fourth, remove the requirement in the Homeless Veterans Comprehensive Service Programs Act of 1992 that funds for various initiatives in that law be specifically provided for in an appropriations law.

Fifth, express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be aware of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

REDUCTION IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Mr. President, title 11 of the compromise agreement would limit the number of personnel reductions in VA and set other requirements regarding VA staff. Specifically, the compromise agreement would:

First, limit the cuts in the VA work force from fiscal years 1993-99 to a total of 10,051 full-time equivalent employees [FTEE].

Second, require that, in determining the total number of FTEE in VA for purposes of achieving Federal work force reductions, only those employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE.

Third, require the Secretary to submit an annual report, through the year 2000, to the House and Senate Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts.

Fourth, provide enhanced authority for VA to contract for services during fiscal years 1995-99 in order to assist VA in achieving its work force reduction, and provide certain assistance and hiring preference to those employees who are displaced by contract workers.

Fifth, require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

COMPENSATION FOR PERSIAN GULF WAR VETERANS FOR DISABILITIES RESULTING FROM UNDIAGNOSED ILLNESSES

Mr. President, the provisions of the compromise agreement regarding Persian Gulf war veterans would clearly provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty, or to a degree of 10 percent or more within a period following service in the Persian Gulf war to be determined by the Secretary. This strongly bipartisan and bicameral provision is derived from provisions that Representatives MONTGOMERY, EVANS, SLATTERY, and KENNEDY offered in the House which were incorporated into H.R. 4386 which passed the House on August 8, 1994, and from provisions that Senator DASCHLE and I offered at the September 23, 1994, Senate Committee on Veterans' Affairs meeting.

My distinguished colleague on the committee, Senator DASCHLE, worked extremely long and hard with me on this issue throughout the entire 103d Congress. During the past several weeks, he and his staff member, Rachel Graham, have devoted much time and energy to crafting the final Senate provisions relating to Persian Gulf war veterans.

Mr. President, I regret that this situation requires a legislative remedy. However, I strongly believe this measure is the appropriate action to take because the Department of Veterans' Affairs will not take action on its own to provide compensation to Persian Gulf war veterans clearly disabled following their service in the gulf. Under this measure, the Secretary would be required to decide whether to compensate these veterans, and, if so, to prescribe regulations to implement the decision and thereby provide Persian

Gulf war veterans the compensation they deserve. The Secretary would determine the appropriate period of time following service in the southwest Asia theater of operations for presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illnesses for which compensation may be paid, and the relevant medical characteristics associated with the illnesses. Of the various legislative options available, I believe this is a good approach because it avoids micromanagement of the Department by Congress, and validates VA's authority to make decisions concerning service connection for specific conditions.

Mr. President, I strongly believe that Congress should not be in the business of legislating service connection for every new disease that results from service in particular wars or military conflicts. That is simply not where our expertise lies. Although this measure is limited to Persian Gulf war veterans, it still leaves the discretion for such decisions to VA, where it rightfully belongs. Only when VA fails to act properly in carrying out its obligations with respect to compensating veterans for service-related disabilities should Congress step in and take some corrective action.

Mr. President, this measure will not resolve all of the problems faced by Persian Gulf veterans. There are still many unanswered questions concerning the health effects of service in the Persian Gulf and whether conditions that take a longer time to show up can be connected to Persian Gulf service. As has been noted previously, we will have to wait for the scientific and medical evidence to provide us with answers. However, I am happy to note that, in addition to the many steps already being taken in this effort by VA, the Secretary of Defense, and the Secretary of Health and Human Services, this measure also would require VA to develop a uniform and comprehensive medical evaluation protocol, and would provide for the evaluation of the health status of spouses and children of Persian Gulf War veterans.

Mr. President, my hope is that we can enact this measure, so that VA can begin to compensate all veterans who are suffering from undiagnosed, service-connected conditions that have left them severely disabled. These deserving veterans should not be penalized simply because their "diseases" have no name. They are sick because of their military service, and therefore should receive compensation from the Government they served so bravely.

EDUCATION, JOB TRAINING, AND HOME LOANS

This bill also contains many technical corrections and improvements to programs which provide education benefits, job training, and home loan benefits to millions of our veterans.

Among these improvements—thanks to my colleague and good friend TOM DASCHLE—vocational flight training will be established as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10, United States Code. Nearly 1,800 veterans have benefited from the financial assistance these programs have provided under the Montgomery GI Bill and the Veterans Educational Assistance Program, a majority of whom have gained employment in the aviation industry. However, authority to allow eligible veterans to use their education benefits for flight training expired on September 30.

It is important to provide as many options as possible for eligible veterans who wish to pursue approved programs of education or vocational training. Eligible veterans who wish to pursue careers in aviation should continue to be allowed to use their education benefits for approved programs of flight training, a result achieved by this bill.

This bill also makes improvements and technical corrections to the Service Member Occupational Conversion and Training Act [SMOCTA]. SMOCTA has been instrumental in helping over 7,000 former service members secure job placement in the private sector. However, some adjustments will make SMOCTA even more valuable for participants.

Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training. This limitation prevents veterans from entering into some training programs for stable, well-paying jobs. This bill allows employer and veteran to agree to a training program that lasts longer than 8 months if they are willing to do so without the benefit of a subsidy for the extended training period. While this will greatly improve the utility of the program for both veteran and employer, removing the 18-month cap on training will not increase the amount of the subsidy payable under a training program.

Mr. President, these are only a few examples of the adjustments made to VA education, home loan, and job training programs in this bill. While most are relatively minor, when taken together they will help VA maintain and improve services to many thousands of our veterans. I wish to recognize the hard work and dedication of GEORGE SANGMEISTER, chairman of the House Subcommittee on Housing and Memorial Affairs, who has made tremendous contributions to this bill and countless others which have benefited our veterans during his 6 years in Congress. He has been an active chairman, and I thank him for his good work.

REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Mr. President, title 11 of the compromise agreement would limit the number of personnel reductions in VA and set other requirements regarding VA staff. This agreement follows months of discussions among the two Committees on Veterans' Affairs, VA, and the Office of Management and Budget. I believe it strikes a reasonable balance between the two difficult and competing objectives of reducing the Federal work force and delivering health care to our Nation's veterans. I thank my good friend and chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, for his cooperation, hard work, and ceaseless advocacy for veterans and veterans' health care.

BACKGROUND

Mr. President, in March 1993, Vice President ALBERT GORE, Jr., launched a 6-month national performance review of the Federal Government with the aim of finding ways to make government work better and cost less. The report of the performance review described numerous changes to the Government that, according to the report could, if implemented, achieve these aims. The report suggested that these changes would enable the Government, through greater program and management efficiency, to reduce the Federal work force by 252,000 positions by the year 2000.

Mr. President, let me reiterate this last point. The National Performance Review team stated, "* * * the reinventions we propose will allow us to reduce the size of the civilian * * * work force by 12 percent [252,000 FTEE] over the next 5 years." The report does not state that cutting the work force will necessarily result in greater efficiency or improved service for our citizens. The NPR report correctly puts the horse before the cart—improvements would enable a work force reduction, not result from a work force reduction.

On March 30, 1994, Congress considered legislation which, in part, was designed to codify the Federal cutback into law. The Federal Workforce Restructuring Act of 1994 proposed a reduction in the Federal Government of 272,900 positions between fiscal years 1993 and 1999. This proposal received the overwhelming support of both Houses of Congress. Public Law 103-226 was enacted March 30, 1994.

Mr. President, this law gives the Office of Management and Budget the authority to determine how to distribute personnel cuts among the Federal agencies. Unfortunately, OMB planned an across-the-board cut of 12 percent for all the agencies, instead of looking carefully at each agency's work force and ability to sustain cuts without compromising the agency's mission. For VA, OMB proposed to cut 27,000 FTEE during the next 5 years. This proposed cut concerned me enormously, particularly in the context of health care reform, as it did my fellow committee members, the House Committee on Veterans' Affairs, and the

many veterans who contacted me about this issue.

Mr. President, I note that, contrasted with OMB's proposal, a later, specific analysis of VA by the National Performance Review showed that, if VA fully implemented all management streamlining proposals, VA would be able to cut a total of only 289 FTEE.

Mr. President, in response to OMB's projected 27,000 FTEE cut, the chairman of the House Committee on Veterans' Affairs [Mr. MONTGOMERY] introduced H.R. 4013 on March 11, 1994, which would have exempted the Veterans Health Administration from work force reductions over the next 5 years, provided that appropriate funding was provided for these positions. The bill would have exempted over 211,000 employees. H.R. 4013 passed the House on May 3, 1994.

Mr. President, I share the concern of my friend, Chairman MONTGOMERY, that VA medical centers cannot afford drastic cuts in staff. We must strengthen the veterans health system by protecting hospitals from arbitrary across-the-board cuts in medical staff. We must search for a long-term solution that maintains the Federal Government's commitment to veterans and permits VA flexibility to staff, contract out, purchase, sell, and do whatever else a business delivering health care services is permitted to do, but without the constraints of Federal employment ceilings and other restrictions. Mr. President, we should not put an artificial cap on health care staffing and, at the same time, tell VA to be a competitive health care provider. The compromise agreement attempts to address this issue.

SUMMARY OF AGREEMENT

Mr. President, the compromise agreement would set a 5-year limit on the number of VA personnel cuts, not to exceed 10,051 FTEE. I and others participating in the negotiation believe that VA could sustain this level of cuts without affecting direct medical care for veterans.

The agreement would also require that, in determining the total number of FTEE in VA for purposes of achieving Federal work force reductions, only those employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. The Department currently counts approximately 5,400 positions that are paid with funds other than federally appropriated funds. In fiscal year 1993, the Veterans' Canteen Service employed 3,065 staff who were paid from the receipts of canteen sales, not from Federal appropriations. Employees of the nonprofit research corporations and Medical Care Cost Recovery Program are similarly paid with nonappropriated money. I strongly believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted.

Mr. President, the compromise agreement also would waive certain conditions with which VA must comply in order to contract out for services that the Department could otherwise perform, provided that certain protections and assistance are provided to those former VA employees who are replaced by workers hired by contract. The Secretary would be required to ensure that, in any contract for services that had been provided by VA employees, the contractor would be required to give priority to former VA employees who were displaced by the award of the contract. The Secretary would also be required to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Finally, Mr. President, the compromise agreement would require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

Mr. President, as a Federal agency which is funded with federally appropriated money, VA has not had the proper incentives to perform as a business. VA hospitals receive appropriations and remain open generally without regard to how many veterans are being served or the quality of service they provide. Although VA does collect a limited amount of third-party reimbursements and copayments, it does not need or rely upon such income. It does not need to attract a certain number of veterans to remain in service. In essence, VA does not have a "bottom line" to drive it to deliver high quality services for a competitive price.

The compromise agreement would require a study that assesses the management structures and organization of the VA health care delivery system. While there are many aspects of VA that should and must remain federally funded and centrally administered—such as programs to assist veterans who suffer from homelessness, posttraumatic stress disorder, or spinal cord injuries, or who need blind rehabilitation—certain aspects of VA's health delivery system could operate more like nongovernment businesses. I believe that VA should strive to serve veterans' health care needs in the best and most effective manner possible. Regardless of whether substantial changes occur in the Nation's health care system, this study should benefit the Department's health delivery system.

CONCLUSION

Mr. President, in closing, I again thank my good friends Representatives SONNY MONTGOMERY and BOB STUMP, the chairman and ranking minority member of the House Committee on Veterans' Affairs, for their cooperation and assistance as we have developed this compromise and four sheparding H.R. 5244 through the House today which passed in lieu of H.R. 4386. I also thank our committee's ranking minority member, my good friend FRANK MURKOWSKI, and all the members of the Senate committee for their support on this measure.

Mr. President, I also want to thank the staff who have worked extremely long and hard on this compromise—Mack Fleming, Jill Cochran, Ralph Ibson, Greg Maton, Winsome Packer, Gloria Royce, Pat Ryan, John Brizzi, Richard Jones, and Kingston Smith on the House committee, and Bill Brew, Meg Morrow, Tom Hart, Valerie Kessner, Dan Rauh, Diana Zuckerman, Kim Lipky, Patricia Olson, Lara Muldoon, Mary Schoelen, Jim Gottlieb, Bill Tuerkk, Chris Yoder, Mickey Thursam, and John Moseman with the Senate committee. I also thank Robert Cover and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting the compromise agreement.

Mr. President, I ask unanimous consent that the explanatory statement that I mentioned earlier appear in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT FOR H.R. 4386, THE VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

H.R. 4386 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These are the following: H.R. 4386, which the House passed on August 8, 1994; H.R. 4088, which the House Committee on Veterans' Affairs reported on August 4, 1994, and the House passed on August 8, 1994 as S. 1927; H.R. 4768, which the House passed on August 1, 1994; H.R. 4776, which the House passed on August 1, 1994; H.R. 4724, which the House passed on August 1, 1994; H.R. 949, which the House passed on September 21, 1993; H.R. 3013, which the House passed on June 13, 1994; H.R. 3456, which the House passed on November 16, 1993; S. 1908, which the Senate passed on August 19, 1994; S. 1546, which the Senate passed on March 25, 1994; S. 2330, which the Senate Committee on Veterans' Affairs reported on September 28, 1994; S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; S. 2094, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; and S. 1626, which was reported by the Senate Committee on Veterans' Affairs on May 23, 1994, and passed by the Senate as part of H.R. 3313 on June 8, 1994.

The Committees on Veterans' Affairs of the Senate and House of Representatives have prepared the following explanation of H.R. 4386 as amended (hereinafter referred to

as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned bills are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—PERSIAN GULF WAR VETERANS

Findings

Current law: No provision.

House bill: Section 2 of H.R. 4386 sets forth specific congressional findings regarding Persian Gulf War veterans, including the following: (1) During the Persian Gulf War, members of the Armed Forces potentially were exposed to toxic substances and psychological stress; (2) Persian Gulf War veterans suffer from illnesses that cannot now be diagnosed or defined, and, as a result, VA does not consider these illnesses to be service connected for VA benefit purposes; (3) the National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held on April 27-29, 1994, was unable to identify a single disease entity or syndrome responsible for these illnesses; (4) the workshop concluded that the data on the range and intensity of the exposure to toxic substances are limited and were collected after considerable delay; (5) under Public Law 102-585, VA established the Persian Gulf War Veterans Health Registry, authorized health examinations, and authorized NAS to conduct a review and assessment of the information about the health consequences of service during the Persian Gulf War, and to make recommendations for research; (6) Public Law 103-210 authorized priority health care for Persian Gulf War veterans; (7) Public Law 103-160, the National Defense Authorization Act for Fiscal Year 1994, provided funding for a specialized environmental research medical facility; and, (8) further research and studies must be undertaken and veterans must be given the benefit of the doubt and provided compensation.

Senate bill: No comparable provision.

Compromise agreement: Section 102 follows the House, adding that the National Defense Authorization Act for Fiscal Year 1995 authorizes the Secretary of Defense to provide research grants for three types of studies of the Gulf War syndrome, including the following: (1) an epidemiological study or studies; (2) studies related to the health consequences of the use of pyridostigmine bromide; and (3) other studies on the causes, treatment, and possible transmission of Gulf War illnesses.

Purposes

Current law: No provision.

House bill: Section 3 of H.R. 4386 states the purposes of the House bill as follows: (1) To provide compensation to Persian Gulf War veterans suffering disabilities resulting from undiagnosed illnesses; (2) to require the development of case assessment strategies and definitions and diagnoses at earliest possible date: (3) to promote greater outreach to Persian Gulf War veterans and their families; and (4) to fund research activities and surveys of Persian Gulf War veterans.

Senate bill: No comparable provision.

Compromise agreement: Section 103 follows the House bill.

Development of medical evaluation protocol

Current law: Title VII of the Veterans Health Care Act of 1992 (Public Law 102-585) requires the Secretary of Veterans Affairs to establish and maintain a Persian Gulf War Veterans Health Registry. Those individuals who served as a member of the Armed Forces in the Persian Gulf War become eligible for enrollment in the registry after they give historical information about their health and military exposures, receive a physical examination, and receive routine diagnostic testing.

On June 17, 1994, VA announced the implementation of a comprehensive case assessment protocol to be used by selected VA medical centers. The first phase of the protocol would continue to be the evaluation provided through enrollment into the VA Persian Gulf War Veterans Health Registry. If necessary, additional evaluations would be offered.

House bill: Section 104 of H.R. 4386 would require the Secretary of Veterans Affairs, in consultation with the Secretaries of Defense and Health and Human Services, to develop at the earliest possible date uniform case assessment protocols and case definitions or diagnoses for illnesses attributed to service in the Persian Gulf War. The Secretary of Veterans Affairs would be required to provide status reports on these activities, with the first such report due to the Committees on Veterans' Affairs of the House and Senate not later than 6 months after the date of enactment of the act.

Senate bill: Section 3 of S. 2330 is similar to the House bill and would require the Secretary to develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf War veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the Gulf War. It would not require VA to provide a case definition of the illness. Section 3 of S. 2330 also would require that the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, ensure that information on the protocols of the two agencies is collected and maintained in a manner that enables the information to be analyzed together.

This section also would require that the VA provide the comprehensive clinical evaluations at as many VA medical centers as possible. This evaluation protocol must include evaluation for reproductive complaints, including but not limited to birth defects, miscarriages, and abnormal semen. If a VA medical center were to be unable to provide the comprehensive clinical evaluation, VA would have the authority to provide funding for the veteran to travel to a VA medical center or non-VA facility that can provide the necessary assessment, diagnosis, and treatment. VA would also have the authority to pay for care at non-VA medical facilities. For individuals whose symptoms or illnesses remain undiagnosed or unresponsive to treatment after comprehensive clinical evaluations at VA medical facilities, the Secretary of Veterans Affairs would be authorized to provide funds for the veteran to be evaluated by a recognized medical institution outside of the VA medical system. All information gathered by non-VA medical facilities as part of these protocols would be required to be maintained by VA.

VA would be authorized to enter into an agreement with the National Academy of Sciences under which appropriate members of the Academy would review the adequacy of the comprehensive clinical evaluation protocol and its implementation by VA.

Compromise agreement: Section 104 includes the requirement that VA develop a medical evaluation protocol, which was included in both the House and Senate bills. It includes the Senate provision requiring VA make the medical protocol available in as many VA medical centers as possible and to include examinations and tests for reproductive complaints. The compromise agreement specifies that the Secretary has authority to contract out these medical examinations, tests, and consultations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses, under section 1703 and section 111 of title 38. The Senate provision regarding reviews by the National Academy of Sciences is also included. The compromise agreement includes the House provision requiring the VA develop a case definition of "Gulf War Syndrome."

Section 104 reflects the Committees' concerns about the letters and Congressional testimony they have received from Gulf War veterans who report that they have had difficulty in obtaining appropriate medical examinations or diagnoses at numerous VA medical centers.

Outreach to Persian Gulf Veterans

Current law: Section 702(f) of Public Law 102-585 required VA to notify periodically individuals listed in the Persian Gulf War Veterans Health Registry of significant developments in research on the health effects of military service in the Persian Gulf during the Persian Gulf War. Neither this provision, nor any other provision in law otherwise specifically requires VA to establish an outreach program for Persian Gulf War veterans and their families. There are a number of benefits and services available to these individuals, but there currently is no single source of VA information to ensure that they know about the benefits and services for which they may be eligible, as well as the scientific studies and research currently being conducted and any development with respect to such research.

House bill: Section 5 of H.R. 4386 would require the Secretary to develop and implement a comprehensive outreach program and information system to provide Persian Gulf War veterans and their families with information regarding VA's Persian Gulf War Veterans Health Registry, access to health services and health related benefits, compensation and other benefits, and developments in research regarding the health consequences of service in the Persian Gulf, and to establish a toll-free telephone number for Persian Gulf War veterans and their families.

This section also would amend section 702(f) of Public Law 102-585 to require VA to establish a newsletter to be distributed at least quarterly to all veterans listed on the VA's Persian Gulf War Veterans Health Registry, or survivors of such veterans. The newsletter would provide updates on the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter also would include information regarding any VA or DOD compensation and benefits, including health care and other health-related benefits which may be available to Persian Gulf War veterans or their family members from either VA or DOD. The newsletter would be required to be prepared in consultation with veterans service organizations.

Senate bill: Section 4 of S. 2330 would require the Secretary to develop and implement a comprehensive outreach program to inform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. Subsection (b) would require that this outreach program include a newsletter to be updated and distributed at least annually to all

veterans listed on VA's Persian Gulf War Veterans Health Registry. The newsletter would provide summaries of the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of opeations. The newsletter would also include information regarding any VA benefits which may be available to Persian Gulf veterans and their families. The newsletter would be required to be prepared in consultation with veterans service organizations.

Subsection (c) of section 4 would require that the outreach program include establishment of a toll-free number within 90 days after the enactment of the act to provide Persian Gulf War veterans and their families informaiton about the Persian Gulf War Veterans Health Registry, health care, and other benefits provided by VA. In addition, the toll-free number would provide any other information the Secretary considers appropriate.

Compromise agreement: Section 105 follows the Senate bill, except that the secretary would be required to issue the newsletter at least twice a year, and this requirement would terminate on December 31, 1999.

Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf War

Current law: There is no provision in current law relating specifically to compensation for Persian Gulf War veterans.

House bill: Section 6 H.R. 4386 would amend title 38 to add a new section 1117 which would require the Secretary to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest to a degree of at least 10 percent before October 1, 1996, or within 2 years after the veteran last performed active service in the Southwest Asia theater of operations, whichever is later. A veteran would not receive compensation if there was affirmative evidence that the disability was not incurred during service in the Persian Gulf theater of operations during the Persian Gulf War or if there was affirmative evidence showing that the veteran suffered from an intercurrent injury or illness, recognized to be a cause of the disability, between the time of the veteran's departure from the Persian Gulf and the onset of the disability.

Payment of compensation under this provision would be for 3 years following enactment of the act, with an automatic extension of 3 years if the Secretary reports to the Committees on Veterans' Affairs of the Senate and the House of Representatives prior to the end of the first 3-year period that no diagnoses for the illnesses experienced by Persian Gulf veterans can be made, based on then-current medical knowledge. A report from the Secretary submitted to the Committees would be due by no later than April 1, 1997.

Senate bill: Section 2(a) of S. 2330 would amend title 38 to add a new section 1112A, which would provide the Secretary with express general authority to conduct an inquiry when the Secretary becomes aware of assertions that a group of veterans with the same or similar military service share similar diseases, illnesses, or medical signs or symptoms, and that such health conditions are related to their service. Such an inquiry would be carried out for the following purposes: To determine whether veterans with the particular military service in question have the claimed health conditions; to identify all veterans who had such service to determine which veterans have such health conditions; and to determine whether a presumption of service connection should be established for such health conditions.

Under this new authority, if the Secretary determines that a presumption of service connection for any such health condition should be established, the Secretary would be required to prepare a proposal for establishing such a presumption. The proposal would be required to include a description of the particular military service involved, the health condition at issue, the relevant medical characteristics associated with the health condition, and a statement of any limitations on the period for which the Secretary proposes to pay compensation.

After completion of the proposal, the Secretary would be required to submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, including the proposal, as well as recommendations for legislation concerning the establishment of the presumption and the reasons for these recommendations.

With specific respect to veterans of the Persian Gulf War, section 2(c) of the Senate bill would require the Secretary to report to the Committees, within 30 days of enactment of the act, whether or not a presumption of service connection should be established between service in the Southwest Asia theater of operations and health conditions experienced by Persian Gulf War veterans. If the Secretary determines that such a presumption should be established, the Secretary, pursuant to section 2(d) of the bill, would be required to include in the report the elements of any report made under the provisions of the new section 1112A and publish proposed regulations relating to establishment of the presumption, allowing 30 days for public notice and comment on the proposed regulations. The Secretary would be required to publish final regulations within 30 days following the expiration of the public notice and comment period.

Section 2(e) would set certain requirements for the treatment of claims and compensation for Persian Gulf veterans if based on a presumption of service connection under the provisions of the Senate bill. First, an award of compensation under the new regulations would not preclude payment of retroactive benefits to a veteran with a claim pending on the date of enactment of these provisions, if VA later determines that the condition is service connected. Second, the Secretary would be required to consider sending all claims for compensation under the new regulations to one regional office for adjudication for purposes of ensuring consistency in rating decisions. Finally, VA would be required to reopen and readjudicate any claims for service-connected disability compensation for a health condition covered in the new regulations that were denied prior to enactment of these provisions. These claims would be considered original claims, and if compensation is eventually awarded, the effective date of the award would be the date the original claim was filed.

Compromise agreement: Section 106 would amend title 38 to add a new section 1117 which would provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty in the Southwest Asia theater of operations during the Persian Gulf War or to a degree of 10 percent or more within a period to be determined by the Secretary, based on a review of any available credible medical or scientific evidence and a review of the historic treatment afforded disabilities for which manifestation periods have been established. The Secretary also would be required to take into account other pertinent circumstances regarding the experiences of Persian Gulf veterans. The Secretary would be required to prescribe regulations to implement this provision.

New section 1117 would require the Secretary to include in the regulations a specification of the manifestation period of time following service in the Southwest Asia theater of operations that the Secretary finds appropriate for a presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illnesses for which compensation may be paid, and the relevant medical characteristics associated with each such illness.

Section 106 also contains a freestanding provision that would require the Secretary, within 60 days of enactment of the act, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report indicating whether or not the Secretary intends to pay compensation under new section 1117. If the Secretary states in the report to the Committees an intent to pay compensation under new section 1117, the Secretary must publish proposed regulations, as required by new section 1117, in the Federal Register within 30 days of the date of the report.

Evaluation of health status of spouses and children of Persian Gulf war veterans

Current law: Section 702 of Public Law 102-585 created a Persian Gulf War Veterans Health Registry. Only veterans can be included in this registry.

House bill: No comparable provisions.

Senate bill: Section 5 of S. 2330 would authorize the inclusion of up to 10,000 dependents in the Persian Gulf War Veterans Health Registry. VA would be required to conduct medical examinations and testing, consultation, and counseling for the dependent of any veteran who is listed in the registry if the veteran believes that the illness of any family member is related to the veteran's service in the Gulf War. The registry would also include information about miscarriages and stillbirths.

The Secretary would be required to determine the types of medical examinations and tests that are appropriate in order to determine the nature and extent of the connection, if any, between the illness or disorder of the individual and the illness of the veteran. These examinations are expected to be similar to registry exams for Gulf War veterans. These tests may be provided by VA facilities or through contract with non-Department facilities.

Compromise agreement: Section 107, which is derived from the Senate provision, would require VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations, tests, and consultations with dependents of Gulf War veterans. These procedures would be restricted to those dependents whose illness, birth defects, or other disorder cannot be disassociated from the veterans' service in the Gulf War. There is no limit on the number of dependents who could be included in the registry; however, the number may be limited by the cost since the bill authorizes $2 million for the pilot study from November 1, 1994, through September 30, 1996. It would authorizes VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities. In addition, information provide by medical facilities that

follow the VA protocol or guidelines could also be included in the registry even if the examinations and tests were not paid for by VA. The compromise also includes a provision regarding outreach to ensure that the maximum possible number of dependents would be included in this research.

The Committees expect that objective medical information on miscarriages, still births, and birth defects can be included in the registry at minimum cost. The Committees also urge the VA to ensure that the pilot study is administered in such a way as to ensure that the medical information that is collected is sufficiently uniform, accurate, and appropriate to the goals of the study.

The purpose of the pilot study is to ensure that the VA conduct research on the illnesses of Gulf War veterans' spouses and children, using an existing data base and objective medical information. The VA is required to prepare a report to Congress describing the results of the pilot study, focusing on any information about the possible transmission of diseases associated with the Gulf War.

The Committees expect VA to use funds from the medical care account for the medical examinations and tests, data analysis, and administration of the pilot study.

Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries

Current law: Under section 703 of the Persian Gulf War Veterans' Health Status Act (Title VII of Public Law 102-585), VA is required to conduct medical examinations for any veteran and the information from those exams must be included in the Persian Gulf War Veterans' Health Registry.

House bill: No comparable provision.

Senate bill: Section 108 would clarify that the Persian Gulf War Veterans' Health Registry includes diagnostic tests in its definition of medical examinations.

Compromise agreement: The compromise follows the Senate provision.

Survey of Persian Gulf Veterans

Current law: There is no authorization in current law for VA to carry out a survey of Persian Gulf War veterans to gather information about their health status.

House bill: Section 8 of H.R. 4386 would require the Secretary of VA, in coordination with the Secretary of Defense, to carry out a survey of Gulf War veterans to gather information about their health problems and the health problems of family members.

Senate bill: No comparable provision.

Compromise agreement: Section 109 amends the House provision, so that it authorizes the survey as described in Section 8.

The Committees note that under the National Defense Authorization Act for FY 1995, Public Law 103-337, the Department of Defense will be providing research grants to non-Federal researchers to conduct similar research on Gulf War veterans, and encourages VA to ensure that VA funded research contributes unique information that will not be available from DoD-funded research.

Authorization for Epidemiological Studies

Current law: Section 722 of the National Defense Authorization Act for FY 1995, Public Law 103-337, requires the Department of Defense to provide research funds to non-Federal scientists to conduct an epidemiological study or studies of U.S. service members and civilians who participated in the Persian Gulf War, and their families.

House bill: Section 9 of H.R. 4386 would authorize VA to conduct an epidemiological study or studies if such a study is recommended by the National Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585).

Senate bill: No comparable provision.

Compromise agreement: Section 110 follows the House provision.

The Committees note that the National Defense Authorization Act for FY 1995, Public Law 103-337, requires the Department of Defense to provide research grants to non-Federal researchers to conduct an epidemiological study or studies of Gulf War veterans and their families. The Committees therefore encourage the VA to coordinate their research efforts to ensure that any epidemiological research funded by VA contributes unique information that will not be available from DoD-funded research.

Cost-savings provisions

Current law: The Omnibus Budget Reconciliation Act of 1990 (OBRA 90), Public Law 101-508, amended section 3203 (now section 5503) of title 38 to limit monthly VA pension payments to $90 for Medicaid-eligible veterans with no dependents who are in nursing homes. Previously, veterans receiving nursing home care covered by Medicaid did not have their pension benefits reduced; however, the amount of their pension had to be applied toward the cost of the nursing home care. No part of that $90 payment can be applied to the cost of the veteran's nursing home care.

Under OBRA 90, this provision was originally due to expire September 30, 1992. The Veterans' Benefits Act of 1992 extended the provision through September 30, 1997, and added a provision applying the limitation to payment of pension to surviving spouses who have no dependents and are receiving nursing home care covered by Medicaid. OBRA 93 extended the provision through September 30, 1998.

There is no comparable protection for any amount of dependency and indemnity compensation (DIC) received by surviving spouses in nursing homes participating in Medicaid. The amount of their benefit payments, minus any amount allowed by the State for personal use, is available to be applied to the cost of their nursing home care.

Section 1317 of title 38 prohibits any person eligible to receive DIC based on a death after December 31, 1956, from being eligible for death pension.

There is no provision in current law which requires an adjustment of the rates of compensation and DIC based on an increase in the cost of living. However, Congress has passed legislation providing for a cost-of-living adjustment in these rates every year since 1976. With respect to calculating the annual cost-of-living adjustment in the rates of compensation and DIC, the Congressional Budget Office budget baseline assumes normal rounding, under which fractional dollar amounts of less than $0.50 are rounded down and fractional dollar amounts of $0.50 and more are rounded up.

House bill: Section 11(a) of H.R. 4386 would amend section 1317 of title 38 to permit surviving spouses eligible to receive DIC to elect to receive death pension under chapter 15 in lieu of DIC. This would permit surviving spouses who are in Medicaid- covered nursing homes and who receive DIC to elect to receive death pension, in order to be able to retain $90 of their monthly benefits.

Section 11(b) of H.R. 4386 would provide that, with respect to any cost-of-living adjustment in the rates of compensation under chapter 11 and DIC under chapter 13 provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

Senate bill: No comparable provision.

Compromise agreement: Section 111 follows the House bill.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Current law: Before 1990, members of the Board of Veterans' Appeals (BVA) had received pay and benefits comparable to those received by Administrative Law Judges (ALJ's). However, the Pay Act of 1990, Public Law 101-194, removed ALJ's from the General Schedule, and thereby eliminated pay comparability between BVA members and ALJ's.

In 1988, Congress enacted the Veterans' Judicial Review Act of 1988, Public Law 100-687, which changed Board members' status (other than that of the Chairman) from permanent appointments to 9-year terms, subject to the possibility of reappointment. Under section 7101(b)(1) of title 38, the Chairman is appointed by the President, with the advice and consent of the Senate, for a term of 6 years.

Currently, a member of the Board may be removed by the Secretary, upon the recommendation of the Chairman. There are no standards that govern removal or reappointment of members. There is no statutory process for removal of a Board member. However, section 7101(b) provides grounds under which the President may remove the Chairman.

House bill: Sections 301 through 303 of H.R. 4088 would restore the pay comparability between members of BVA and ALJ's and eliminate term limits for Board members (other than the Chairman). These provisions also would require the Chairman to establish job performance standards, with the approval of the Secretary, and would require that reviews be conducted not less than every 3 years. If the Chairman recommended that the member be noncertified, the Secretary would establish a panel of non-BVA employees of the Department or Federal employees from outside the Department, or a combination of VA and other Federal employees, to review the member's case.

Senate bill: Sections 302 through 304 of S. 2325 would restore the pay comparability between members of BVA and ALJ's, eliminate term limits for Board of Veterans' Appeals members (other than the Chairman), require the establishment of a peer review panel to periodically review the performance and fitness of Board members, and clarify that those BVA members who hold appointments through the Senior Executive Service (SES) retain their SES pay and status.

Compromise agreement: Section 201 would amend title 38 to add a new section 7101A which would eliminate term limits for Board members other than the Chairman and provide that members of the Board (other than the Chairman and Board members who are members of the SES) would receive the same basic pay as received by ALJ's (unless that would result in a reduction in pay). The pay provision would be effective on the first day of the first pay period beginning after December 31, 1994.

Under new section 7101A, the provisions for pay comparability with ALJ's and the elimination of term limits would be accompanied by new provisions instituting a system for periodic job performance review and recertification of members of the Board (other than the Chairman and any member who is a member of the SES). Section 7101A would require the Chairman to establish a panel, to

include the Chairman and two other members of the Board (other than the Vice Chairman), that would conduct reviews of the job performance of Board members. The membership of this panel (other than the Chairman) would rotate among all members of the Board.

Section 7101A also would require that the Chairman, with the approval of the Secretary, establish job performance standards for Board members (except the Chairman and Board members who are members of the SES), which are to be objective and fair criteria for the evaluation of job performance. Section 202 would require that the job performance standards be established not later than 90 days after the enactment date of this act. This section also would require that the Secretary submit a report describing these standards to the Senate and House Committees on Veterans' Affairs no later than the date on which these standards take effect.

Within 1 year after the establishment of the job performance standards, section 7101A would require that the panel complete a review of the job performance of each member of the Board. Reviews would then have to be conducted and completed at least once every 3 years thereafter. If the panel determines that a Board Member meets the performance standards, the Chairman would recertify the Board member. If a Board member does not meet the performance standards, the Chairman would be required either to grant the Board member conditional recertification or to recommend to the Secretary that the member be noncertified. A conditional recertification would require another review within 1 year after the conditional recertification. If the Board member does not meet the job performance standards after the period of conditional recertification, the Chairman must recommend to the Secretary that the member be noncertified.

If the Chairman recommends to the Secretary that a member be noncertified, either a performance review or after a period of a conditional recertification, the secretary would be authorized to grant a conditional recertification or determine that the member should be noncertified. If the Secretary grants a conditional recertification, the performance review panel would review the member's job performance within 1 year and if the member still does not meet the standards, the Chairman would be required to recommend to the Secretary that the member be noncertified.

If the Secretary determines that the member should be noncertified, the member's appointment would be terminated and the member removed from the Board. Any Board member whose appointment is terminated and who was a career or career-conditional employee in the civil service prior to service on the Board would revert to the civil service grade and series held prior to appointment to the Board.

Section 7101A would require the Secretary to prescribe procedures for carrying out the provisions of the section, including the deadlines and time schedules for the actions required.

Section 203 would amend section 7101(b)(3) to specify that if the position of Chairman were to become vacant upon the expiration of the Chairman's term, the current Chairman would be authorized, with the approval of the Secretary, to continue to serve as Chairman until the Chairman is appointed to another term or a new Chairman is appointed. However, this section would provide that the Chairman would not be able to continue to serve under this provision beyond the end of the Congress during which the term of office expired.

TITLE III—ADJUDICATION IMPROVEMENTS

Acceptance of certain documentation for claims purposes

Documents to be accepted as proof of relationships

Current law: Until recently, VA's regulations did not allow acceptance of photocopies of documents that were not certified as evidence to show marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country (sections 3.202(c); 3.204(b) and (c); 3.205(a); 3.207(b); 3.209; 3.210; and 3.211 of title 38, Code of Federal Regulations). A photocopy could only be accepted if the original document had been viewed by an authorized individual and was certified as a true and exact copy of the original document. This requirement of certification existed only in VA's regulations; it was not a statutory requirement.

On September 8, 1994, VA published interim regulations to amend sections 3.202(c), 3.204 (b) and (c), 3.205(a), 3.207(b), 3.209 (a) and (b), 3.210 (b) and (c), and 3.211 (a) and (d) of title 38, Code of Federal Regulations, to implement the Secretary's decision to allow VA to accept photocopies of documents necessary to establish marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country for purposes of processing claims for VA benefits. Under these regulations, VA would still have the authority to request certified documentation in cases in which it is questionable whether the photocopies are genuine and free from alteration.

House bill: Section 405(a) of H.R. 4088 would amend title 38 to add a new section 5124 which would provide that, for purposes of determining eligibility for benefits, VA must accept a written statement from a claimant as proof of marriage, dissolution of a marriage, birth of a child, and death of any family member. The Secretary would be authorized to require the submission of documentation in support of the claimant's statement if the claimant does not reside in a State, or if the statement on its face raises a question as to its validity.

Senate bill: Section 202 of S. 1908 is a freestanding provision that would allow VA to accept photocopies of documents as proof of marriage, dissolution of marriage, birth, or death for purposes of determining eligibility for certain VA benefits. The Secretary would be authorized to require the claimant to submit additional supporting documentation if the document on its face raises a question with respect to its validity, or if there is reasonable indication of fraud or misrepresentation, in the document or otherwise.

Compromise agreement: Section 301(a) would amend title 38 to add a new section 5124 which would allow the Secretary to accept a statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member for purposes of VA benefits. The Secretary would be authorized to require documentation in support of the statement if the claimant does not reside in a State, if the statement on its face raises a question as to its validity, if there is conflicting information in the record, or if there is reasonable indication of fraud or misrepresentation in the document or otherwise.

The Secretary is encouraged to exercise the authority granted under this section to the maximum extent feasible.

Acceptance of private physician examinations

Current law: Currently, under section 3.326 of title 38, Code of Federal Regulations (as amended by 59 Fed. Reg. 35851 (July 14, 1994)), VA generally requires a VA examination for purposes of determining eligibility for disability benefits. However, section 3.326(d) permits VA to accept the statement of a private physician in the following cases: (1) A claim for increased compensation due to an increase in the severity of a service-connected disability or due to the need of the veteran's spouse for aid and attendance; (2) a veteran's pension claim, including a claim for housebound or aid and attendance benefits; (3) a surviving spouse's claim for housebound or aid and attendance benefits; (4) a surviving spouse's claim for aid and attendance benefits; or (5) a claim by or on behalf of a child who is permanently incapable of self-support.

House bill: Section 405(b) of H.R. 4088 would amend title 38 to add a new section 5125 which would require VA to accept the medical examination report of a private physician in support of a claim for benefits, without further examination by a physician employed by the Veterans Health Administration, if the report is sufficiently complete to be adequate for disability rating purposes.

Senate bill: Section 203 of S. 1908 is a freestanding provision which would allow VA to accept the medical examination report of a private physician in support of a claim for disability compensation or pension. Under this provision, a private physician's report would be required to contain sufficient clinical data to support the diagnosis or provide a reliable basis for a disability rating.

Compromise agreement: Section 301(b) would amend title 38 to add a new section 5125 which would allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA compensation or pension, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

It is the express intention of the House and Senate Committees on Veterans' Affairs that, to the maximum extent feasible, the Secretary exercise the authority provided under this section as being in the best interest of veterans in furthering the timely adjudication of their claims for compensation by reducing the need for duplicative medical examinations by VA physicians.

Expedited treatment or remanded claims

Current law: Section 7101 of title 38 provides that appeals to the Board of Veterans' Appeals (BVA) will be considered and decided in order according to their docket number. There is no statutory requirement governing the treatment of claims on remand to the Board from the Court of Veterans Appeals or to regional offices from the Board.

House bill: Section 406 of H.R. 4088 is a freestanding provision that would require the Secretary to take such actions as may be necessary to provide that claims remanded by the BVA to regional offices or by the Court of Veterans Appeals to the Board be treated expeditiously.

Senate bill: No comparable provision.

Compromise agreement: Section 302 follows the House bill.

Screening of appeals

Current law: Under section 7107 of title 38, appeals are considered and decided in order according to their docket numbers.

House bill: Section 407 of H.R. 4088 would amend section 7107 to permit the Board to

screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Senate bill: No comparable provision.

Compromise agreement: Section 303 follows the House bill.

Report on feasibility of reorganization of adjudication divisions in VBA regional offices

Current law: Currently, the administration of VA's compensation and pension programs is carried out in the 58 regional offices of the Veterans Benefits Administration, located in the 50 states, the District of Columbia, Puerto Rico, and the Republic of the Philippines. Each of these offices, except one, has an adjudication division.

House bill: Section 402 of H.R. 4088 would require the Secretary of Veterans Affairs to submit to the House and Senate Committees on Veterans' Affairs, within 180 days of enactment of this act, a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

Senate bill: No comparable provision.

Compromise agreement: Section 304 follows the house bill.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Current law: There is no provision in current law relating to a study of VA's system for adjudicating claims for benefits.

House bill: No comparable provision.

Senate bill: Section 101 of S. 1908 is a free-standing provision that would require an independent, comprehensive 18-month study by the Administrative Conference of the United States of VA's system for adjudicating benefit claims at the regional office level and the appellate process at the Board of Veterans' Appeals (BVA).

The purpose of the study would be to evaluate the entire adjudication system in order to determine the efficiency of its processes and procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process.

The study would be required to contain an evaluation and assessment of the entire claims adjudication system, including its historical development and the effect that the Veterans' Judicial Review Act of 1988 has had on the system; how claims are prepared and submitted; the procedures that exist for processing claims; the participation of attorney and nonattorney advocates in the system; VA's efforts to modernize its information management system; the impact of work performance standards at all levels of the claims process; the extent of implementation of the recommendations of the Blue Ribbon Panel on Claims Processing; the application of pilot programs initiated in regional offices; and the effectiveness of quality control and assurance practices.

In the course of its evaluation and study, ACUS would be required to consult with representatives of veterans service organizations and other organizations and entities representing veterans before VA, to include individuals who furnish such representation.

No later than 90 days following the enactment date of the legislation, VA would be required to provide ACUS and the Senate and House Committees on Veterans' Affairs with information deemed necessary by the chairman of ACUS for purposes of conducting the study, including specific statistical information concerning the adjudication of claims during the 5-year period October 1, 1988, through September 30, 1993.

Within 1 year after the date of enactment, ACUS would be required to submit to the Secretary and the Committees a preliminary report on the study. This preliminary report would contain the initial findings and conclusions of ACUS regarding the evaluation and assessment required. The preliminary report would not be required to include any recommendations for improving the system.

Within 18 months following enactment, ACUS would be required to submit a full report on its study to the Secretary and the Committees. The report would include: (1) The findings and conclusions of ACUS with respect to the study; (2) the recommendations of ACUS for improving the VA adjudication system; and (3) any other information and recommendations concerning the system that ACUS deems appropriate.

An appropriation of $150,000 would be authorized to VA for payment to ACUS for the costs associated with conducting the study and completing the report to be submitted to the Secretary and the Committees.

Compromise agreement: Title IV would require the establishment of an independent commission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals. Section 401 would require that the commission be composed of nine members, all to be appointed by the Secretary of Veterans Affairs by February 1, 1995. The membership of the commission would be required to be composed of the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or a similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Section 401 also would require that the commission hold its first meeting within 30 days after the last of the members has been appointed. Meetings would take place at the call of the chairman. The Secretary would be required to designate a member of the commission, other than the member who is a current official of the Department, to be the chairman.

Section 402(b), regarding the purposes of the study, is generally similar to section 101(b) of the Senate bill.

Senate 402(c), regarding the contents of the study, is substantially similar to section 101(c) of the Senate bill. This section would require that the study consist of a comprehensive evaluation and assessment of VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study. However, section 402(c) would not include a specific requirement that the commission evaluate the historical development of the system and the effect that the Veterans' Judicial Review Act of 1988 has had on the system.

Section 402(d) would require the Secretary to submit to the commission and the Committee on Veterans' Affairs any information which the Chairman has determined necessary to carry out the study, not later than 30 days from the date on which the Chairman makes a request for such information.

Section 402(e), regarding the contents and timing of the preliminary and final reports required of the commission, is identical to section 101(f) of the Senate bill, requiring a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Section 407 would authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

TITLE V—MISCELLANEOUS BENEFITS-RELATED PROVISIONS

Restatement of intent of Congress concerning coverage of Radiation-Exposed Veterans Compensation Act of 1988

Radiation risk activities

Current law: The Radiation-Exposed Veterans Compensation Act of 1988, Public Law 100-321, enacted on May 1, 1988, added a subsection (c) to section 1112 of title 38 which established a presumption of service connection for 13 cancers suffered by veterans who participated in a "radiation risk activity," defined as participation in an atmospheric test of nuclear devices, involvement in the occupation of Hiroshima and Nagasaki following World War II, or internment as a prisoner of war in Japan during World War II that might have resulted in exposure comparable to the occupation forces. Two additional cancers were added to this subsection by Public Law 102-578. On September 8, 1994, the Secretary published in the Federal Register a proposed amendment to section 3.309(d), Code of Federal Regulations, which would extend the presumption of service connection, and therefore eligibility for compensation, to U.S. veterans who participated in atmospheric nuclear tests conducted by Allied Governments.

House bill: Section 501(a) of H.R. 4088 would amend section 1112(c) of title 38 to clarify that participation in atmospheric testing of nuclear devices includes non-U.S. tests. The effective date of the amendment would be May 1, 1988, the date of enactment of Public Law 100-321.

Senate bill: No comparable provision.

Compromise agreement: Section 501(a) follows the House bill, except that the effective date of the amendment would the date of enactment of the act.

Service connection for certain disabilities relating to exposure to ionizing radiation

Current law: The "Veterans' Dioxin and Radiation Exposure Compensation Standards Act," Public Law 98-542, required VA to establish standards for adjudicating claims based on exposure to Agent Orange and radiation. VA adopted regulations for those claims in sections 3.311a and 3.31b of title 38, Code of Federal Regulations.

The United States Court of Veterans Appeals in *Combee* v. *Principi*, 4 Vet.App. 78 (1993), held that a veteran may not establish direct service connection for a disability based on radiation exposure unless the disability is on VA's regulatory list of "radiogenic diseases" issued pursuant to Public Law 98-542. the essence of the Court's decision was that by establishing a process in Public Law 98-542 relating to claims based on radiation exposure, Congress repealed the general compensation law as to such claims. This decision was reversed by the United States Court of Appeals for the Federal Circuit in *Combee* v. *Brown*, No. 93-7101 (Fed. Cir. Sept. 1, 1994).

At a March 24, 1994, hearing of the Senate Committee on Veterans' Affairs on this bill

and other pending legislation, Under Secretary for Benefits R. John Vogel announced Secretary Brown's intention to publish a proposed amendment to the regulation to "permit a veteran to establish direct service connection for disability resulting from a disease claimed to be caused by radiation exposure even if that disease is not included in the list of diseases VA already recognizes as radiogenic." As of the date of passage of this legislation, VA has not published a proposed regulation to implement this change.

House bill: Section 501(b)(1) of H.R. 4088 would amend section 1113(b) of title 38, which provides that the provisions of law governing statutory presumptions may not be construed to prevent the establishment of service connection on a direct basis. The amendment would add a reference to the provisions of Public Law 98-542 to the provisions governing statutory presumptions, thereby affirming a claimant's right to attempt to establish direct service connection for a disability associated with exposure to ionizing radiation. This section applies to claims submitted after the date of enactment.

Senate bill: Section 301 of s. 1908 has the same intent as the House provision, but accomplished that goal through a proposed amendment to Public Law 98-542 in order to clarify Congress' intent in enacting the law. The amendment to Public Law 98-542 would add a new section, specifying that the regulations adopted by VA under the statute may prohibit a veteran who served during an eligible period of service from establishing direct service connection for a disease or disability based on exposure to radiation, even though the veteran's condition is not considered by VA to be a "radiogenic disease."

Compromise agreement: Section 501(b) follows the House bill.

Extension of authority to maintain regional office in the Philippines

Current law: Under section 315(b) of title 38, the Secretary currently has the authority to maintain a regional office in the Republic of the Philippines until December 31, 1994.

House bill: Section 502 of H.R. 4088 would extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 502 follows the House bill.

Renouncement of benefit rights

Current law: Under section 5306 of title 38, if a claimant renounces his or her right to VA pension, compensation, or dependency and indemnity compensation, and subsequently reapplies, the new claim is treated as an original claim. Therefore, for purposes of any income-based program (pension or parents' DIC), only prospective income may be considered in determining the claimant's eligibility.

House bill: Section 503 of H.R. 4088 would amend section 5306 to provide that an application filed for non-service-connected pension under chapter 15 of title 38, or parents' DIC under chapter 13 of title 38, made within 1 year of a renouncement of such benefits, will not be treated as an original claim and benefits will be paid as though the renouncement had not occurred.

Senate bill: No comparable provision.

Compromise agreement: Section 503 follows the House provision.

Clarification of payment of attorney fees under contingent fee agreements

Current law: Under section 5904(d) of title 38, an attorney otherwise authorized to collect a fee for representation in a VA case may receive payment for such representation directly from VA out of a retroactive benefit award, provided that the total fee not exceed 20 percent of the amount of any past-due benefits awarded to the appellant, and provided that the fee is contingent upon whether or not the claim is ultimately resolved in favor of the appellant.

House bill: No comparable provision.

Senate bill: Section 4 of S. 1546 would amend 5904(d) to clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit award only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Compromise agreement: Section 504 follows the Senate bill.

Codification herbicide-exposure presumptions established administratively

Current law: The Agent Orange Act of 1991, Public Law 102-4, enacted on February 6, 1991, established a statutory presumption of service connection for three conditions resulting from exposure to herbicides in the Republic of Vietnam during the Vietnam era: chloracne, soft-tissue sarcoma, and non-Hodgkin's lymphoma. In addition, the act required VA to contract with the National Academy of Sciences for a review of the scientific literature on the health effects of exposure to herbicides. NAS was required to report its findings to the Secretary, who then was required to decide whether presumptions of service connection should be established for any of the conditions considered by NAS. In 1993, following the submission by NAS of the first report under the act, the Secretary announced decisions to add to the presumptive list Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma. VA has finalized regulations to implement these decisions, found in section 3.309(e) of title 38, Code of Federal Regulations.

House bill: Section 201 of H.R. 4088 would amend section 1116 of title 38 to codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma established administratively by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 505 follows the House bill.

Treatment of certain income of Alaska Natives for purposes of needs-based benefits

Current law: Under current law, VA pays disability pension to non-service-connected wartime veterans whose annual incomes fall below levels specified in section 1521 of title 38 and who meet other qualifying criteria specified by statute. For purposes of computing annual income (and, thus, determining eligibility for pension and the amount of benefits paid), VA takes into account "all payments of any kind or from any source" received by the veteran, except as specified in section 1503 of title 38, or as otherwise excepted by law.

The Alaska Natives Claims Settlement Act, Public Law 92-203, codified at 43 U.S.C. section 1601 et seq. (ANCSA), sets forth the provisions under which the aboriginal land claims of Alaska's Native peoples were settled. ANCSA authorized the creation of 12 Native-owned and -operated regional corporations to administer assets transferred under the act for the benefit of Alaska Native shareholders. These corporations continue to exist today, and they distribute funds received in settlement of Native land claims and funds generated from corporate earnings to Native village corporations and to Alaska Native shareholders.

House bill: No comparable provision.

Senate bill: Section 5 of S. 1626 would amend section 1503(a) by adding a new paragraph (11), to exclude payments received from Alaska Native corporations under ANCSA from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Compromise agreement: Section 506 would establish a freestanding provision of law which reflects the intent of the Senate bill.

Elimination of requirement for payment of certain benefits in Philippine pesos

Current law: Sections 107, 3532(d) and 3565(b)(1) of title 38, provide that VA benefits paid to certain eligible veterans in the Republic of the Philippines will be paid in Philippine pesos.

House bill: No comparable provision.

Senate bill: Section 402 of S. 2325 would amend sections 107, 3532(d), and 3565(b)(1) of title 38 to eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Department of State and Treasury that such restrictions be eliminated.

Compromise agreement: Section 507 follows the Senate bill.

Study of health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation

Current law: There is no provision in current law relating to a study of the family members of atomic veterans.

House bill: No comparable provision.

Senate bill: Section 401 of S. 2325 would require the VA to enter into a contract with the Medical Follow-up Agency of the National Academy of Sciences, or a similar research entity, to convene an expert panel to determine the feasibility of a study of reproductive problems among atomic veterans. MFUA would be required to convene the panel and report their findings to Congress within 180 days. If MFUA concludes that such a study would be feasible, VA would be required to seek to enter into a contract with MFUA or a similar research entity to conduct such a study.

Compromise agreement: Section 509 is derived from the Senate provision but would delete the authorization for the research project itself, while maintaining the requirement that VA enter into a contract with MFUA to convene an expert panel to determine the feasibility of such research.

Center for minority veterans and center for women veterans

Current law: Section 317 of title 38 requires the Secretary to designate one Assistant Secretary as VA's Chief Minority Affairs Officer (CMAO) with overall responsibility for assessing the needs of minority and women veterans, and for evaluating VA policies, regulations, programs, and other activities as they affect such veterans. Section 542 of title 38 establishes a VA advisory Committee on Women Veterans and requires that the Committee consist of representatives of women veterans, experts in fields pertinent to the needs of women veterans, and representatives of both male and female veterans with service-connected disabilities.

House bill: H.R. 3013 would add a new section to Chapter 3 of title 38 to (a) establish a Center for Women Veterans in the Department of Veterans Affairs; (b) provide that the Director of the Center would report directly to the Secretary or the Deputy Secretary concerning the activities of the Center; (c) specify the functions for which the Director would be responsible; (d) require the Secretary to ensure that the Director is furnished with sufficient resources in order to carry out the functions of the Center in a timely manner; and (e) require that VA's documents regarding the budget include information about the Center.

Senate bill: S. 2429 would (a) create an Office for Minority Veterans which is similar in structure and purpose to the Center for Women Veterans in the House bill, in order to assist minority veterans; (b) establish an Advisory Committee on Minority Veterans; (c) designate a minority veterans representative at each VA facility; (d) create an Office for Women Veterans, which is substantively identical to the Center for Women Veterans established in the House bill; and (e) require that a representative of women veterans who have served in combat and a representative of those who have not served in combat serve on the Advisory Committee on Women Veterans.

Compromise agreement: Section 509 contains provisions derived from the House bill and the Senate bill which would establish a Center for Minority Veterans and a Center for Women Veterans.

Advisory Committee on Minority Veterans

Current law: There is no current law regarding the establishment of a VA Advisory Committee for Minority Veterans.

House bill: No comparable provision.

Senate bill: Section 2 of S. 2429 would (a) require the Secretary to establish an Advisory Committee for Minority Veterans; (b) require the Committee membership to represent certain groups relating to minority veterans; and (c) require the Committee to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Compromise agreement: Section 510 follows the Senate bill, except that the statutory requirement to have an Advisory Committee for Minority Veterans would be for a period of three years.

Mailing of notices of appeal to the Court of Veterans Appeals

Current law: Under section 7266 of title 38, in order to obtain review of a final BVA decision by the United States Court of Veterans Appeals, an appellant must file a notice of appeal with the Court within 120 days after the date on which the notice of the BVA decision is mailed under section 7104(e). The Court implemented this statutory provision through adoption of Rule 4 of the Court's Rules of Practice and Procedure, which requires that a notice of appeal must actually be received by the Court within the statutory time limit in order to be timely filed. In a series of decisions, the Court has dismissed for lack of jurisdiction appeals that were mailed before, but received by the Court after, the 120-day limit had expired. (See, e.g., *DiDonato* v. *Derwinski*, 2 Vet. App. 42 (1991)).

Rule 4 of the Court's Rules of Practice and Procedure also allows the filing of a notice of appeal by "facsimile or other printed electronic transmission."

House bill: No comparable provision.

Senate bill: Section 3 of the S. 1546 would amend section 7266(a) of title 38 to require that a notice of appeal be deemed received by the Court on the date it is postmarked, if it is mailed. Only legible United States Postal Service postmarks would be sufficient. The Court's determination as to the legibility of a postmark would be final and not subject to review by any other court.

Under amended section 7266(a), if a notice of appeal is delivered to the Court (for example, by private courier or delivery service), it would be considered timely filed if it is received by the Court within the 120-day limit established by Congress.

Section 3(b) of the Senate bill would provide that the effective date of the amendment to section 7266(a) would be the date of the enactment of the act and would apply only to notices of appeal delivered or mailed to the Court on or after that date.

Compromise agreement: Section 511 following the Senate bill, except that it also would require specifically that the notice of appeal be properly addressed to the Court.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

Flight training

Current law: Sections 3034(d) and 3241(b) of title 38, and Section 2136(c) of title 10, allow eligible persons to use VA educational benefits for approved programs of vocational flight training commencing before October 1, 1994.

House bill: Section 2 of H.R. 4768 would establish vocational flight training as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Senate bill: Section 1 of S. 2094 is substantively identical to the House provision, except that the Senate bill specifies that the provision would take effect on October 1, 1994.

Compromise agreement: Section 601 follows the Senate bill.

Training and rehabilitation for veterans with service-connected disabilities

Current law: Section 3115 of title 38 authorizes vocational rehabilitation programs providing training or work experience for service-disabled veterans to be implemented through Federal, State, city, and local governments.

House bill: Section 3 of H.R. 4768 authorizes the use of Indian reservations for the purposes of section 3115 of title 38, in order to allow eligible veterans to participate in non-pay programs of on-the-job training on Indian reservations.

Senate bill: No comparable provision.

Compromise agreement: Section 602 follows the House bill.

Alternative teacher certification programs

Current law: Section 3452(c) of title 38 defines the term "educational institution" for the purposes of chapters 34 and 36 of title 38.

House bill: Section 4 of H.R. 4768 would add to the definition of the term "educational institution" as described in section 3452(c), for the purposes of chapters 34 and 36, entities which provide training required for completion of any State-approved alternative teacher certification program as determined by the Secretary, effective upon enactment for the period ending September 30, 1996.

Senate bill: No comparable provisions.

Compromise agreement: Section 603 follows the House bill.

Education outside the United States

Curent law: Section 3476 of title 38 denies education benefits to eligible individuals who pursue a course of education not in a State unless that course is pursued at an approved institution of higher learning and the course is approved by the Secretary.

House bill: Section 5 of H.R. 4768 would amend section 3476 to remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 604 follows the House bill.

Correspondence courses

Current law: Section 3672 of title 38 does not specifically address the requirements for approval of correspondence or combination correspondence-residence programs or courses.

House bill: Section 6 of H.R. 4768 would add to section 3672 of title 38 a provision requiring that a correspondence program or combination correspondence-residence course is eligible for approval by State Approving Agencies only if the educational institution offering such program or course is accredited by an agency recognized by the Secretary of Education. This section would also add a provision to section 3672 requiring that no less than 50 percent of the graduates of any such program or course take a minimum of 6 months to complete the program or course.

Senate bill: No comparable provision.

Compromise agreement: Section 605 follows the House bill except that the word "agency" is changed to "entity."

State approving agencies

Current law: Section 3674(a)(4) of title 38, relating to payments by VA to State and local agencies for reasonable expenses associated with approval of courses of education, limits the total amount made available under that section to $12,000,000 per fiscal year. Section 3674A(a)(3) requires the Secretary to functionally supervise course approval services.

House bill: Section 7 of H.R. 4768 would amend section 3674(a)(4) to increase the maximum amount available under the section to $13,000,000 per fiscal year, and would strike sections 3674(a)(3)(B) and 3674A(a)(3), thereby eliminating the reporting and supervision requirements contained therein.

Senate bill: No comparable provision.

Compromise agreement: Section 606 follows the House bill.

Measurement of courses

Current law: Under Section 3688(b) of title 38, the Secretary defines full and part-time training for purposes of courses pursued under chapters 30, 32, 35, or 36.

House bill: Section 8 of H.R. 4768 would add chapter 106 of title 10 to the sources of educational and training benefits for which the Secretary will define full and part-time training.

Senate bill: No comparable provision.

Compromise agreement: Section 607 follows the House bill.

Veterans' Advisory Committee on Education

Current law: Section 3692 of title 38 establishes a Veterans' Advisory Committee on Education which shall remain in existence unit December 31, 1994. The Secretary is required to consult with and seek the advice of the committee with respect to the administration of chapters 30, 32, 34, 35, and 36 of title 38.

House bill: Section 9 of H.R. 4768 would extend the Advisory Committee until December 31, 2003, and make technical changes to the Committee's mandate.

Senate bill: No comparable provision.

Compromise agreement: Section 608 follows the House bill.

Contract educational and vocational counseling

Current law: Section 3697(b) of title 38 limits payments made under section 3697 for contractual educational and vocational counseling services to $5,000,000 in any fiscal year.

House bill: Section 10 of H.R. 4768 would amend section 3697(b) to raise the payment limitation to "$6,000,000," effective October 1, 1994.

Senate bill: No comparable provision.

Compromise agreement: Section 609 follows the House bill.

Service Members Occupational Conversion and Training Act of 1992

Current law: The Service Members Occupational Conversion and Training Act (SMOCTA), enacted by Public Law 102-484, authorizes payment of a subsidy to employers who train recently separated service members who are unemployed, whose military skills do not transfer to the civilian job market, or who are disabled. The subsidy is 50 percent of the starting training wage payable over a period of 18 months up to a maximum of $10,000 ($12,000 for disabled veterans). Under current law, the 18-month limitation on payment of the subsidy is phased in terms of an 18-month limit on the period of training.

House bill: Section 11 of H.R. 4768 would allow the employer and veteran to agree to a training program that lasts longer than 18 months, but with no payment of a subsidy for the extended training period. The provision would also: a) Clarify that the requirement in current law that employers pay a comparable wage refers to wages paid in the community where the veteran is being trained; b) clarify that payment of the subsidy is limited to an 18-month period, or the equivalent where the length of a training program is calculated in hours; c) amend the requirement that a portion of the reinstatement be retained until the 4th month of the veteran's employment by also permitting payment 4 months after completion of the 18th month of training, whichever is earlier; d) allow a trainee to switch into an alternative approved training program with the employer; and e) permit an eligible veteran to begin an approved training program on the date that the notice of approval is transmitted.

Senate bill: Section 2 of S. 2094 is substantively identical to the House provision, except that: a) The amount of payment an employer may receive would be measured in the number of hours equivalent to 18 months, rather than in months; b) the provision for retaining a portion of the reimbursement until the fourth month of employment would not be changed; c) and the limit on assistance paid to employers would include amounts received but not amounts due.

Compromise agreement: Section 610 follows the House bill except that it includes the Senate provision which measures the amount of payment an employer may receive in the number of hours equivalent to 18 months.

TITLE VII—EMPLOYMENT PROGRAMS

Job counseling, training and placement

Deputy Assistant Secretary of Labor for Veterans' Employment and Training

Current law: There is no provision in law for a Deputy Assistant Secretary for Veteran's Employment and Training.

House bill: Section 2(a) of H.R. 4776 provides that there shall be a Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes, that the position shall be a career position, and that the Deputy Assistant Secretary shall be a veteran.

Senate bill: No comparable provision.

Compromise agreement: Section 701(a) follows the House provision, except that the Deputy Assistant Secretary for Veterans' Employment and Training shall not be a career position.

DVOP specialists' compensation rates

Current law: Section 4103A(a)(1) of title 38 provides that compensation for disabled veterans' outreach program (DVOP) specialists shall be set at a rate not less than the rate prescribed for an entry level professional in the State Government of the State in which the DVOP is employed.

House bill: Section 2(b) of H.R. 4776 would require compensation for DVOP's to be set at rates comparable to those paid other professionals in the State Government.

Senate bill: No comparable provision.

Compromise agreement: Section 701(b) follows the House provision with an addition providing that compensation shall be set at rates comparable to those paid other professionals performing essentially similar duties.

Special unemployment study

Current law: Section 4110A requires the Secretary, through the Bureau of Labor Statistics, to conduct a biennial study of unemployment among special disabled veterans and veterans who served in the Vietnam theater of operations during the Vietnam era.

House bill: Section 2(c) of H.R. 4776 expands the scope of the study to include veterans who served after the Vietnam era and veterans discharged or released from active duty within the 4 years prior to the study, and requires that information regarding women veterans shall be complied for each category.

Senate bill: No comparable provision.

Compromise agreement: Section 701(c) provides that the scope of the study shall be expanded to include veterans of the Vietnam era who served outside of the theater of operations, veterans who served after the Vietnam era, and veterans discharged or released from active duty within the 4 years prior to the study. It requires that, for each of the classifications of veterans, there shall be a category for women veterans.

The Committees recognize that the Bureau of Labor Statistics uses a survey methodology that produces a small sample size for women veterans.

Employment and training of veterans

Federal contracts

Current law: Section 4212(a) of title 38 requires, among other things, that the President promulgate regulations which require Federal contractors to list all "suitable" job openings with the local employment service office.

House bill: Section 3(a)(1)(C) of H.R. 4776 would strike the word "suitable" from section 4212(a).

Senate bill: No comparable provision.

Compromise agreement: Section 702(a) would amend section 4212(a) to require Federal contractors to immediately list all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting three days or less.

It is the Committee's intent that Federal contractors may not exclude from the listings positions at the middle management and supervisory level.

Eligibility requirements for veterans under Federal employment and training programs

Current law: Section 4213 of title 38 excludes certain pay and other amounts received by veterans and eligible persons when determining the needs or qualifications of participants in employment or training programs financed in whole or in part with Federal funds.

House bill: Section 3(b) of H.R. 4776 would add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213, and would delete reference to chapter 34.

Senate bill: No comparable provision.

Compromise agreement: Section 702(b) follows the House bill, and, in addition, would delete the words "the needs or qualifications of participants in" in section 4213, and would insert, in lieu thereof, the words "eligibility under."

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

Eligibility for burial in national cemeteries of spouses who predecease veterans

Current law: Section 2402 of title 38 specifies who is eligible to be buried in an open national cemetery. The Veterans' Benefits Improvement and Health Care Authorization Act of 1986, Public Law 99-576, made a technical correction in section 5 in order to make the section gender neutral. However, the change unintentionally deleted the statutory eligibility for burial in a national cemetery for a veteran's spouse who predeceases the veteran.

House bill: No comparable provision.

Senate bill: Section 403 of S. 2325 would restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Compromise agreement: Section 801 follows the Senate bill.

Restoration of burial eligibility for unremarried spouses

Current law: Section 2402 of title 38 permits the surviving spouse of a veteran to be buried in any open national cemetery. The term "surviving spouse" is currently defined in section 101(3) of title 38 as one who is the spouse of a veteran at the time of the veteran's death and who has not remarried. Section 8004 of the Omnibus Reconciliation Act of 1990, Public Law 101-508, precluded eligibility for certain benefits under title 38, including eligibility for burial in national cemeteries, for remarried surviving spouses whose subsequent marriages were ended by death or divorce.

House bill: Section 4 of H.R. 3456 would reinstate eligibility for burial in national cemeteries of surviving spouses whose subsequent marriage ended by death or divorce.

Senate bill: No comparable provision.

Compromise agreement: Section 802 follows the House bill.

Extension of authorization of appropriations for State Cemetery Grant Program

Current law: Section 2408(a)(2) of title 38 authorizes appropriations of such funds as may be necessary for fiscal year 1985, and for each of the 9 succeeding fiscal years, for the purpose of making grants to any State in establishing, expanding, or improving veterans' cemeteries owned by such State.

House bill: Section 7 of H.R. 949 would extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994, to September 30, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 803 follows the House bill.

Authority to use flat grave markers at the Willamette National Cemetery, Oregon

Current law: Section 2404(c)(2) of title 38 requires that all grave markers in national cemeteries be upright for interments on or after January 1, 1987, except that flat grave markers may be used (a) in any section of a cemetery that used flat grave markers prior to October 28, 1986, (b) in any cemetery located on the grounds of or adjacent to a VA health care facility, or (c) at those grave sites where cremated remains are interred.

House bill: No comparable provision.

Senate bill: Section 404 of S. 2325 would authorize the use of flat grave markers at the Willamette National Cemetery in Oregon, notwithstanding section 2404(c)(2) of title 38.

Compromise agreement: Section 804 follows the Senate bill.

TITLE IX—HOUSING PROGRAMS

Eligibility

Current law: Subsections (b)(2) and (b)(5)(A) of section 3701 of title 38 expand the definition of the term "veteran" for purposes of chapter 37.

House bill: Section 1 of H.R. 4724 would add to the definition of veteran, persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and would extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Senate bill: No comparable provision.

Compromise agreement: Section 901 follows the House bill.

Revision in computation of aggregate guaranty

Current law: Section 3702 of title 38 provides for the calculation of the loan guaranty entitlement. Subsection (b)(1)(A) of section 3702 requires that any home acquired with a VA-guaranteed loan must have been disposed of or destroyed as one precondition to the restoration of entitlement.

House bill: No comparable provision.

Senate bill: Section 2 of S. 1626 would eliminate the precondition to restoration of loan guaranty entitlement provided for in subsection 3702(b)(1)(A).

Compromise agreement: Section 902 follows the Senate bill, but provides that the Secretary may waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

Public and community water and sewerage systems

Current law: Section 3704(e) of title 38 prohibits VA from guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

House bill: Section 4 of H.R. 4724 would eliminate the prohibition contained in section 3704(e).

Senate bill: No comparable provision.

Compromise agreement: Section 903 follows the House bill.

Authority to guarantee home refinance loans for energy efficiency improvements

Current law: Section 3710 of title 38 identifies the types of loans that may be guaranteed under the VA home loan program, and establishes certain conditions and restrictions with respect to such loans.

House bill: Section 3(a) of H.R. 4724 would allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Senate bill: Section 3 of S. 1626 would allow for the costs of energy efficiency improvements to be added to the balance of a loan being refinanced, and would provide an exception for such purposes from the maximum loan amount as provided in section 3710(e)(1)(C).

Compromise agreement: Section 904 follows both bills, except that it includes the exception to the maximum loan amount in a refinance as provided in the Senate bill.

Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages

Current law: Subsection 3701(e)(1)(A) of title 38 requires that the interest rate of a loan which is guaranteed in order to refinance an existing loan must be lower than the rate of the loan which is being refinanced.

House bill: Section 3(b) of H.R. 4724 would authorize the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Senate bill: No comparable provision.

Compromise agreement: Section 905 follows the House bill.

Manufactured home loan inspections

Current law: Section 3712(h)(2)(a) of title 38 requires the Secretary to make certain inspections with respect to the financing of loans for the purchase of manufactured housing.

House bill: Section 4 of H.R. 4724 would eliminate VA inspection requirements under section 3712(h)(2)(A), and would provide that manufactured housing that is certified to conform to standards under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Senate bill: No comparable provision.

Compromise agreement: Section 906 follows the House bill.

Procedures on default

Current law: Section 3732(c) of title 38 permits the Secretary to acquire property from a loan holder who has purchased the property at foreclosure for a price not exceeding the lesser of the net value of the property or the total indebtedness.

House bill: Section 5 of H.R. 4724 would permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's bid at the foreclosure sale might have exceeded that price.

Senate bill: No comparable provision.

Compromise agreement: Section 907 follows the House bill.

Minimum active-duty service requirement

Current law: Section 5303A establishes, with certain exceptions, a minimum of 24 months of active duty service for eligibility for benefits under title 38.

House bill: Section 6 of H.R. 4724 would add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of a reduction in force.

Senate bill: No comparable provision

Compromise agreement: Section 908 follows the House bill.

TITLE X—HOMELESS VETERANS PROGRAMS

Reports on activities of the Department of Veterans Affairs to assist homeless veterans

Current law: Section 10 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to submit, no later than May 1 of each year 1994, 1995, and 1996, reports to the Senate and House Committees on Veterans' Affairs on the implementation of that act, including the numbers of veterans served, the services provided, and an analysis of the clinical value and cost effectiveness of the programs authorized under that act. However, there is no other provision in current law that requires VA to submit a report to Congress on all of the Department's activities to assist homeless veterans.

House bill: No comparable provision

Senate bill: Section 105 of S. 2325 would require VA to submit an annual report by April 15 on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Compromise agreement: Section 1001 follows the Senate bill and repeals the reporting requirement under section 10 of Public Law 102-590.

It is the Committees' intention that the information that VA is required to furnish to the Committees under section 10 of Public Law 102-590 would be contained, along with other matters, in the reports required under this section of the compromise agreement.

Report on assessment and plans for response to needs of homeless veterans

Current law: Section 107 of the Veterans's Medical Programs Amendments of 1992, Public Law 102-405, enacted on October 9, 1992, requires the Secretary to assess programs developed by VA facilities which have been designed to assist homeless veterans. In carrying out this assessment, the Secretary is directed to require the director of each VA medical center and regional office (a) to assess the needs of homeless veterans within the area served by the facility, including veterans' needs for health care, education and training, employment, shelter, counseling, and outreach services; and (b) to develop, along with other local officials and providers of services to the homeless, a list of all public and private programs to assist homeless persons in the areas served by the VA facilities. Public Law 102-405 does not set a date for submission of this report.

House bill: No comparable provision.

Senate bill: Section 106 of S. 2325 would require VA to submit the report described above to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually thereafter, through December 31, 1997.

Compromise agreement: Section 1002 follows the Senate bill.

Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992

Current law: Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to establish no more than four demonstration programs to be centers for the provision of comprehensive services to homeless veterans.

House bill: No comparable provision.

Senate bill: Section 108(a) of S. 2325 would raise the limit on the number of comprehensive homeless centers that VA may establish from 4 to 12.

Compromise agreement: Section 1003 follows the Senate bill, except that the limit would be raised to eight centers.

Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992

Current law: Section 12 of the Homeless Veterans Comprehensive Service Programs

Act of 1992, Public Law 102-590, specifies that no funds may be used to carry out certain provisions in that law unless expressly provided for in an appropriations statute.

House bill: Section 8 of H.R. 949 would delete this requirement.

Senate bill: Section 108(b) of S. 2325 is identical to the House bill.

Compromise agreement: Section 1004 contains this provision.

Sense of Congress

House resolution: H. Res. 503 would express the sense of the House of Representatives that Congress, in providing funds for any fiscal year for programs to assist homeless individuals, should ensure that these funds are fairly apportioned for homeless veterans to help return homeless veterans to self-sufficient and productive lives.

Senate bill: No comparable provision.

Compromise agreement: Section 1005 is derived from the House resolution and would express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximately the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximately the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be award of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Requirement for minimum number of full-time equivalent positions

Current law: There is no provision in current law relating to the specific number of personnel in VA.

Section 5(b) of the Federal Workforce Restructuring Act of 1994, Public Law 103-226, requires the President, through the Director of the Office of Management and Budget, to ensure that the total number of full-time equivalent employees (FTEE) in all Federal agencies not exceed specified levels set for each of fiscal years 1994 through 1999. The Office of Management and Budget has the authority to determine now and from where these cuts will taken.

House bill: Section 2 of H.R. 4013 would (a) prohibit, during fiscal years 1995 to 1999, any reduction in the number of FTEE in the Veterans Health Administration (VHA) other than as specifically required by a law directing a reduction in personnel from VHA or by the availability of funds; and (b) require that the personnel of VHA be managed on the basis of the needs of eligible veterans and the availability of funds. Section 3 of H.R. 4013 would require the Secretary to submit, not later than January 15, 1995, a report to the Senate and House Committees on Veterans' Affairs on streamlining activities in VHA.

Senate bill: Section 7 of S. 2330 would limit the number of FTEE cuts in VA over the next 5 years, and impose certain requirements relating to VA personnel.

Specifically, section 7(b) would set the number of FTEE in VA between the date of enactment of this measure and September 30, 1999, at 224,377 (which is 10,051 FTEE lower than VA's personnel level during fiscal year 1993).

Section 7(c) would require that, in determining the number of FTEE in VA during a fiscal year for purposes of achieving Federal workforce reductions, as required by section 5(b) of Public Law 103-226, only those VA employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. In fiscal year 1993, the administration counted 5,375 positions in VA (including 3,065 in the Veterans Canteen Service, 2,066 in the Medical Care Cost Recovery program, and 244 in the Medical Center Research Organizations) that were paid with funds other than federally appropriated funds.

Section 7(d) would allow the level of VA FTEE to fall below 224,377 if cuts are necessary due to a reduction in funds available to the Department, or if a law enacted after the enactment of this measure specifically requires additional cuts.

Section 7(e) would require the Secretary to submit an annual report, through the year 2000, the Senate and House Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts. This information would be required to be contained in the annual President's budget submitted to Congress pursuant to section 1105 of title 31, United States Code.

Compromise agreement: Section 1102 follows the Senate bill.

The Committees believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted. The Committees note VA's intention to pay 2,218 medical residents in VA medical centers on a contract basis with the residents' medical schools.

The Committees strongly discourage VA from achieving the work force reduction required under this section by cutting staff in an arbitrary, across-the-board manner. Such arbitrary cuts cause indefensible staffing imbalances among VA programs and facilities, and hurt VA's ability to provide services to veterans. Although this section does not direct the Secretary how to implement personnel reductions, section 7(e) would require VA to share with the Committees the numbers and positions of any personnel cuts, and to justify such cuts. The Committees also believe that section 1103 of the compromise agreement would give VA a mechanism to avoid implementing across-the-board cuts.

Enhanced authority to contract for necessary services

Current law: Subsection 8110(c) of title 38 precludes VA from entering into contracts under which VA direct patient care or activities incident to direct patient care would be converted to activities performed by non-VA providers. For services other than those services, this section requires (a) that VA receive at least two bids from financially autonomous bidders; (b) that the cost to the Government of such contract service over the first 5 years to be 15 percent lower than the cost of Federal employees performing such services; and (c) that the quality and quantity of health care provided to veterans at the facility where such contract work is to be performed would be maintained or enhanced. Before carrying out a study in connection with a decision to consider entering such a contract, VA must submit notice to the appropriate Committees of the Congress of its intention to carry out such a study.

House bill: No comparable provision.

Senate bill: Section 8 of S. 2330 would (a) waive, during fiscal years 1995 to 1999, the limitations provided for under section 8110(c) of title 38; (b) require the Secretary to ensure that, in any contract for services that had been provided by VA employees, the contractor give priority to former VA employees who were displaced by the award of the contract; and (c) require the Secretary to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Compromise agreement: Section 1103 follows the Senate bill. The Committees note that providing VA enhanced authority to contract for services will assist VA in achieving its workforce reduction.

Study

Current law: No provision in current law requires a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

House bill: No comparable provision.

Senate bill: Section 9 of S. 2330 would (a) require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care services to veterans; and (b) authorize appropriations of $1 million for this purpose.

Compromise agreement: Section 1104 follows the Senate bill.

The Committees intend by this provision to draw on the expertise of an independent management consultant to study and assess the management structures and organization of the VA health care delivery system with particular reference to the likelihood that VA will need to compete with private health care providers. The Committees anticipate receiving a detailed evaluation of VA from a business perspective and recommendations on how VA's health care system might be improved and altered, if appropriate, to provide the highest quality medical services to our Nation's veterans in the most effective and efficient manner possible. It is the Committees' view that certain aspects of VA's health delivery system likely could operate more like nongovernment businesses.

Any analysis of VA's health care system must be made in the context of VA's overall mission to help veterans, especially those with service-connected disabilities. In this context, the Committees note that there are many aspects of VA that should and must remain federally funded and centrally administered, particularly programs to assist veterans who suffer from posttraumatic stress disorder, spinal cord dysfunction, or who need blind rehabilitation. VA provides a public good—a necessity which may or may not be adaptable to a competitive business environment. This study would attempt to find the most effective and efficient health delivery mechanism given this reality.

THE JAMES B. STANLEY PRIVATE RELIEF ACT OF 1994

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to calendar No. 689, H.R. 808; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 808) was deemed read the third time, and passed.

A PRIVATE RELIEF BILL FOR JAMES STANLEY

Mr. THURMOND. Mr. President, I wish to thank Senator MACK for his cooperation in resolving a difficult situation, as well as Senator METZENBAUM for his assistance. I wish to clarify the circumstances under which I have withdrawn my objections to H.R. 808, the private relief bill on behalf of Mr. James Stanley. My steadfast objection to this and other private relief bills is that, except in rare circumstances, I do not believe that the Congress should act as a court by determining liability and damages in individual cases.

Today we have an unusual situation, which we do not expect to be followed in the future, which is intended to and should result in binding arbitration to determine the amount Mr. Stanley will receive, if any, from the funds provided by H.R. 808. This arrangement provides for determination of the facts of this case by an outside fact-finder, and will result in any amounts which Mr. Stanley is not entitled to receive being returned to the U.S. Treasury.

It is the intention of the Congress that the arbitrators determine liability and any economic and noneconomic damages due to Mr. Stanley as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by U.S. Army personnel in 1958, notwithstanding any statute of limitations, lapse of time, bar of laches, or limitation of liability for injuries arising out of activity incident to service on behalf of the United States, that is, the Feres Doctrine.

I ask Senator MACK if this is his understanding of the result in this unique situation.

Mr. MACK. Yes, this is the outcome which we intend and will do everything possible to see carried out. I would like to thank both Senator THURMOND and Senator METZENBAUM for their willingness to resolve this matter during these final hours of the 103d Congress, so that Mr. Stanley can more quickly receive the full relief which I believe he deserves.

Mr. THURMOND. Mr. President, I ask unanimous consent that the form of agreement to be executed by Mr. Stanley and his attorney be printed in the RECORD following my remarks.

There being no objection, the form was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 8, 1994.

Members of the U.S. Senate.
Members of the U.S. House of Representatives.

Presently pending before you is legislation which would authorize the undersigned individual to receive $400,577 from the United States government by reason of certain ailments which I claim resulted from my service in the United States Military.

I hereby pledge and agree that I will not seek to obtain the $400,577 as provided for in the legislation, except for the procedures as set forth herein.

Under that legislation, I am to be paid $400,577 in full and complete settlement of all my claims against the Federal Government. An issue has been raised with respect to the amount of the settlement, as well as my right to obtain any funds.

I am requesting that the government pass the legislation in its present form, with my full and complete commitment that I will not be entitled to any funds, nor will I accept any funds nor request any payment other than that amount determined by the arbitrators, until such time as my rights have been adjudicated by an impartial arbitration panel, in which one of the members of that panel will be named by me, one named by the Office of the Attorney General, and the third member decided between the two of us. The United States government is to have no obligation for my legal fees.

In the event that I, or the Office of the Attorney General delay in naming their member of the panel for a period in excess of 30 days, I agree to join with the government in requesting that the American Arbitration Association name a single arbitrator to resolve the issue as to my right to receive any money, as well as the exact amount of money. The arbitrators will agree to reach a decision within 30 days after the plaintiff and defendants conclude the presentation of their cases.

I understand that the arbitration panel will determine my damages, if any, and in any event, the amount is not to exceed $400,577. I further agree that the arbitration panel will determine reasonable attorneys' fees, if any, to be paid from the amount set by the arbitrators.

I hereby pledge and agree that I will not seek to obtain the $400,577 as provided for in the legislation, except for the procedures as set forth herein.

JAMES STANLEY,
Counsel for the Above Named Individual.

INTERNATIONAL ANTITRUST

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4781, relating to international antitrust, just received from the House; that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 4781) was deemed read the third time, and passed.

Mr. METZENBAUM. Mr. President, the International Antitrust Enforcement Assistance Act of 1994 will give the Department of Justice and the Federal Trade Commission important new tools for effectively enforcing the antitrust laws in today's global economy. It will allow the U.S. antitrust agencies to get antitrust evidence from their foreign counterparts by enabling them to provide reciprocal assistance for the enforcement of foreign antitrust laws. This important new authority will be exercised pursuant to antitrust mutual assistance agreements that meet the specific conditions set out in the Act, including assurances of reciprocity and protection for confidential business information.

On July 19 of this year, I introduced a predecessor bill, S. 2297, jointly with Senator THURMOND and with the cosponsorship of Senators KENNEDY, BIDEN, LEAHY, SIMON, SIMPSON, and GRASSLEY, subsequently joined by Senator HATCH and SPECTER. A nearly identical bill, H.R. 4781, was introduced on the same day in the House of Representatives. On August 11, the Judiciary Committee voted to report favorably on S. 2297, with one amendment in the nature of a substitute. The substitute clarified the role of the Federal Trade Commission, improved the safeguards against improper disclosure of antitrust evidence abroad, and made technical corrections.

H.R. 4781 was considered by the Subcommittee on Economic and Commercial Law of the House Judiciary Committee, which adopted most of the changes approved by the Senate Judiciary Committee, made certain further clarifications and corrections, and voted favorably on the bill on September 27, 1994, with one amendment in the nature of a substitute. On September 28, 1994, the House Judiciary Committee made further technical corrections and voted to report favorably on the bill. The bill was voted upon and passed on the floor of the House of Representatives on October 3, 1994, and it is the version of the bill as passed by the House that is now before the Senate.

The Senate Judiciary Committee's discussion of the committee bill, S. 2297, as set out in its report on the bill, are described in detail in the committee's report, remains applicable to H.R. 4781. Most of the changes that appear in H.R. 4781 are intended as clarifications and do not affect the implementation or interpretation of the Act. I would like to explain some of these changes.

Section 3 of the act has been modified to clarify the role of the Federal Trade Commission in carrying out investigations on behalf of a foreign antitrust authority. Section 3(a) provides that all foreign requests for such assistance are to be made to the Attorney General, who may deny a request in whole or in part for foreign relations reasons or for such other reasons as he may deem appropriate. If the foreign request for assistance passes an initial screening by the Attorney General, pursuant to section 10(b) the Attorney General and the Commission are to determine which agency will conduct the investigation using the same clearance procedure they would use if it were a

domestic matter. After this analysis, the responsible agency will conduct a more detailed analysis to ensure compliance with the requirements set forth in section 8 prior to providing assistance pursuant to a foreign request.

Section 5 of the act allows the Justice Department to seek a court order under rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure, as interpreted in accordance with the Act, to disclose grand jury matters to a foreign antitrust agency for use in a foreign antitrust investigation or proceeding. Under section 5, a court may allow disclosure to a foreign antitrust authority, pursuant to an antitrust mutual assistance agreement and subject to a showing of particularized need, of grand jury matters that may disclose a violation of foreign antitrust law (whether criminal, civil or administrative). The committee bill included a comparable provision, except that applications for disclosure would have been made pursuant to Rule 6(e)(3)(C)(i), which authorizes disclosure preliminarily to or in connection with a judicial proceeding. Unlike the committee bill, the act does not require disclosure to be preliminary to or in connection with judicial proceeding.

Section 7 of the act requires publication for public comment of proposed antitrust mutual assistance agreements negotiated pursuant to the act, modifications of proposed agreements, and proposed amendments to existing agreements. In addition, the final agreement or amendment, as well as notice of the termination of an agreement, must also be published. Publication is required before an antitrust mutual assistance agreement or an amendment to an agreement can be effective under the act. This is a change from the committee bill, which contained comparable publication requirements but did not make publication of the final agreement a precondition for using the agreement pursuant to the authorization of the act.

Section 9 of the bill limits and clarifies the scope of judicial review of the process of entering into antitrust mutual assistance agreements, their terms, and their use. Section 9(a) which has not changed from the committee bill, completely exempts from judicial review the necessarily subjective and forward-looking determinations that the Attorney General and the Commission must make, under sections 8(a) (1) and (3), before assisting a foreign antitrust agency under the act. Section 9(b) exempts from judicial review the question of whether an antitrust mutual assistance agreement satisfies the technical legal citation and description requirements of section 12(2)(C); this provision is an addition to the committee bill. In addition, section 9(c) provides two rules of construction which use somewhat different language but achieve the same result as the committee bill. First, the section makes clear that, despite the inclusion of a publication and comment procedure required for antitrust mutual assistance agreements, it is not intended to make that procedure, or the use of the agreements, subject to judicial review under the Administrative Procedure Act [APA]. Such agreements, and the decisions made and actions taken by the Attorney General and the Commission pursuant to them, will be infused with foreign affairs concerns not ordinarily subject to APA review. And second, the section makes clear that nothing in the section shall be construed to limit any judicial review available under the laws referenced in section 5, which protect the confidentiality of Hart-Scott-Rodino pre-merger filings, grand jury materials, and classified information, respectively. Although the language of section 9 of the the act differs in certain respects from the committee bill, the act is not intended to create or imply any greater right of judicial review than was contemplated by the committee bill. More generally, consistently with the intent of the committee bill, nothing in the act creates or implies a right of judicial review not otherwise provided for by law.

Section 12 incorporates certain changes in the requirements for an antitrust mutual assistance agreement. Under section 12(2), an antitrust mutual assistance agreement can be either a government-to-government agreement or memorandum of understanding, or an agency-to-agency agreement or memorandum of understanding between the Attorney General and the Federal Trade Commission, on the one side, and a foreign antitrust authority on the other. The committee bill would have included agreements of this nature, and would in addition have allowed agency-to-agency agreements that included other foreign agencies (in addition to a foreign antitrust agency) to the extent necessary to provide the assistance provided in the agreement.

Section 12(2)(E) places conditions on the circumstances in which antitrust evidence disclosed to a foreign antitrust authority pursuant to the act may be used for the purpose of enforcing laws other than a foreign antitrust law. Certain of these conditions were not included in the committee bill.

In addition, section 12(9) clarifies the definition of a regional economic integration organization that is eligible to be a party to an antitrust mutual assistance agreement. This definition is intended to include the European Union, and would include other entities composed of foreign states that have comparable authority with respect to antitrust enforcement.

The International Antitrust Enforcement Assistance Act of 1994 will give our antitrust enforcement agencies the tools they need to carry antitrust enforcement into the 21st century. The bill has broad bipartisan and business community support, and I am pleased to be joined with Senator THURMOND and other colleagues on the Judiciary Committee in recommending its passage.

Mr. THURMOND. I rise today in support of H.R. 4781, the International Antitrust Enforcement Assistance Act, which is the House version of the legislation I introduced with Senator METZENBAUM in July of this year. It authorizes closer cooperation and sharing of information between United States and foreign antitrust authorities in order to more effectively enforce antitrust laws for the benefit of American consumers and businesses.

As I have stated previously, the goals of this legislation deserve broad bipartisan support. It is appropriate and necessary for our antitrust authorities to be given better tools for obtaining evidence abroad, because antitrust violations increasingly involve transactions and evidence which are located abroad or in more than one country. This bill achieves that goal by authorizing investigations to be conducted and information shared with foreign authorities in appropriate circumstances. However, this legislation does not change the jurisdictional reach or substance of either the United States antitrust laws or any foreign law.

Mr. President, I believe that this legislation now contains all necessary protections to safeguard American interests. Prior to any exchange of information, the bill requires a comprehensive agreement between the United States and foreign antitrust authorities, which is effective only after notice and an opportunity for public comment. That agreement is required to contain many terms to protect the confidentiality of any information disclosed, while the bill expressly precludes disclosure of certain categories of information.

Among other things, the confidentiality provisions require that the U.S. agencies must make a determination confidentiality and will be applied. Further, the bill ensures that there will be true reciprocity between the United States and foreign antitrust authorities in providing assistance and exchanging information so that the benefits and responsibilities are evenly shared.

For all of these reasons, this is a bill which is good for American consumers and which many American businesses wholeheartedly support. I urge my colleagues to vote for this legislation.

FEDERAL WATER POLLUTION CONTROL ACT

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5176, relating to ocean

pollution in San Diego, just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider be laid on the table; that any statements relating to this matter be placed in the RECORD at the appropriate place as if read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5176) was deemed read the third time, and passed.

PROVIDING FOR THE CONVENING OF THE FIRST SESSION OF THE 104TH CONGRESS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 425, a joint resolution providing for the convening of the first session of the 104th Congress, received from the House and at the desk; that the joint resolution be deemed read the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 425) was deemed read the third time, and passed.

IMPLEMENTATION OF OIL POLLUTION ACT WITH RESPECT TO ANIMAL FATS AND VEGETABLE OILS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2559, relating to the animal fats and vegetable oils, introduced earlier today by Senator HARKIN; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table; that any statements relating to this item be placed in the RECORD as if read in the appropriate place.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (S. 2559) was deemed read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

THE COOPERATIVE WORK TRUST FUND AMENDMENTS OF 1994

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2560, the Cooperative Work Trust Fund Amendments of 1994, introduced earlier today by Senators LEAHY, LUGAR, and others; that the bill be deemed read the third time, passed, and the motion to reconsider laid upon the table, and any statements appear in the RECORD as if read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (S. 2560) was deemed read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

HIGH-SPEED RAIL DEVELOPMENT ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. BUMPERS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 4867) to authorize appropriations for high-speed rail transportation, and for other purposes.

The President pro tempore laid before the Senate the following message from the House of Representative:

Resolved, That the bill from the House of Representatives (H.R. 4867) entitled "An Act to authorize appropriations for high-speed rail transportation, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) high-speed rail offers safe and transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this Act is to encourage far-sighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation), is amended by adding at the end the following new chapter:

"CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE

"§25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institution plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) Economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

"(2) No less than 20 percent of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater;

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed

high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossing;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"§25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"§25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(5) the term 'State" means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(6) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.

"§25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FISCAL YEAR 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49, United States Code.

(b) AUTHORIZATION FOR FISCAL YEAR 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATIONS FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49, United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

Mr. GORTON. Mr. President, I would like to lend my enthusiastic endorsement for the Swift Rail Development Act, a bill that could not be more appropriately named.

During my years in the Congress, I have had the privilege and pleasure to work with my colleague, Representative AL SWIFT. While we are of different parties, I have always enjoyed working with him as a legislative partner. But most especially, I have enjoyed his insight and his friendship. AL has a long list of achievements. And the bill before the Senate today is just one of many in a long list. Perhaps, one of my proudest legislative accomplishments is one that I share with AL, to require airbags in automobiles.

The bill before the Senate today used to be known as the high speed rail bill. Forevermore, it will be the Swift rail bill, an appropriate honor to the author of this bill.

Transportation alternatives available to Northwesterners are few, but the need for them is acute. The main stretch of highway connecting Vancouver, BC, to Eugene, OR, is heavily used by vehicles carrying both commuters and freight. Several years back, this corridor was designated one of five national high speed rail corridors. This legislation will speed up development of this corridor, which is critically important to the hundreds of commuters who desperately need another, more efficient way of getting around the Northwest. I appreciate having the opportunity to work with AL to ensure that the Northwest corridor's needs were addressed by the language in this bill.

The excitement over the high speed rail demonstration run between Portland and Bellingham is testament to the support this program will receive. Once we have high speed rail up and running in the Northwest, I am certain we will wonder how we ever got along without it.

Mr. BUMPERS. I move that the Senate concur in the House amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BUMPERS. I move to reconsider the vote.

Mr. LOTT. I move to lay that on the table.

The motion to lay on the table was agreed to.

CORRECTING THE ENROLLMENT OF S. 1312

Mr. BUMPERS. Mr. President, I ask unanimous consent the Senate turn to the consideration of H. Con. Res. 304, a concurrent resolution to correct the enrollment of S. 1312, the Employee Retirement Income Security Act; that the concurrent resolution be agreed to; the motion to reconsider laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the concurrent resolution (H. Con. Res. 304) was agreed to.

THE SOCIAL SECURITY ACT AMENDMENTS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5252, a bill to amend the Social Security Act to make miscellaneous and technical amendments, just received from the House; that the bill be deemed read a third time and passed; the motion to reconsider laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5252) was deemed read a third time and passed.

TECHNICAL CORRECTION ACT

Mr. ROCKEFELLER. Mr. President, I am extremely pleased that after several years of hard work, we are finally able to enact a number of Medicare provisions, mostly of a technical and clarifying nature. But many of these provisions are of great importance to my home State, especially in the case of the Essential Access Community Hospital and Rural Primary Care Hospital Program.

West Virginia is one of seven States that is participating in the so-called EACH/RPCH Program. West Virginia is serving as a national model of how to

maintain essential and emergency health care services in rural and remote areas. This legislation contains a number of provisions to give hospitals additional flexibility to help them make the transition from a full service acute care hospital to a health care facility that provides emergency services, limited inpatient care, and other health services identified as vital to a particular community.

Two hospitals in West Virginia, Broaddus Hospital in Phillipi and Webster County Memorial Hospital, have already been federally designated as rural primary care hospitals. They are two of only a handful of hospitals officially designated as RPCH's nationwide since the program was enacted in 1989. Part of the delay has been due to the inability of Congress to enact these technical amendments which have been stalled in the legislative process for the past few years. For example, this legislation clarifies that "rural primary care hospitals" may keep patients hospitalized for an average of 72 hours, rather than no longer than 72 hours. Without the EACH/RPCH Program, the only other option for many small, rural hospitals is to shut their doors.

This legislation also includes a key extension for the authorization for the Rural Health Transition Grant Program. This grant program has benefited many hospitals in West Virginia since its enactment in the mid-1980's. Many West Virginia hospitals have already received funding to develop rural health care networks, for management improvements, recruitment and retention of health care providers, and to enhance outpatient services.

I am particularly pleased that this legislation includes a provision that clarifies legislation I authored, which was successfully enacted in 1989, that expanded Medicare reimbursement to include coverage for mental health services provided by psychologists. Previously, millions of Medicare beneficiaries, particularly residents of rural areas, were unable to have access to mental health services because psychiatrists were the only recognized mental health providers under Medicare. In West Virginia, almost 40 percent of the rural elderly live in areas without a psychiatrist. That's why I felt it was so important for the Medicare Program to catch up with other health insurance programs and State laws.

This legislation also completes action on a piece of legislation which I introduced in 1991, the Medicare Cancer Coverage Improvement Act. The sole provision of this legislation that has yet to be enacted is included in this technical bill as well. It instructs the Secretary of Health and Human Services to study the costs of patient care for Medicare beneficiaries enrolled in clinical trials of new cancer therapies. This will allow patients to participate in clinical trials which may save their lives, instead of forcing them back into therapies already deemed useless by their doctors. It is time to develop a rational policy to make sure Medicare beneficiaries are not unfairly denied access to the best available care. As that National Cancer Institute has frequently noted, treatment provided under a clinical protocol is state-of-the-art cancer therapy.

Mr. President, I am also pleased that this legislation contains a provision to extend the Medicare Select Program for another 6 months. While currently limited to 15 States, this Medigap insurance policy option has resulted in lower premiums for many Medicare beneficiaries. A recent Consumer Reports included 8 Medicare Select policies in the top 15 rated Medigap products nationwide.

Last year, I introduced the Family Preservation and Child Protection Reform Act with Senator BOND which called for new Federal funding for child welfare services, with an emphasis on preventive service to children. Thanks to the leadership of our President, we made a downpayment on child welfare reform with almost $1 billion in new flexible funding in the budget bill signed into law last year. This bill helps to fill in the gaps by moving forward on provisions that could not be in the reconciliation bill because of procedural rules of the Senate. This package includes basic action for child welfare traineeships, and other necessary enhancements.

I would especially like to commend Chairman MOYNIHAN and the ranking member, Senator PACKWOOD, for their leadership on the Suter issue, which covers the enforcement of State plans of child welfare, welfare and other provisions of the Social Security Act. A sweeping Supreme Court decision eliminated an individual's right to sue to enforce provisions of State plans under the Social Security Act. This caused real concern, and I joined with several of my Senate colleagues in petitioning the finance committee to review this court decision and its impact on States and children in 1992. Senators MOYNIHAN and PACKWOOD held a hearing which helped to forge a compromise on this issue. That compromise is part of this legislation.

Also, I would like to mention that this legislation makes improvements in child support enforcement. It includes a provision, similar to a bill I sponsored in the past, to require States to provide information to credit bureaus about overdue child support. If an individual places their credit rating at risk by missing a car payment, shouldn't the same thing happen if they are at least 2 months delinquent on their child support payments.

Mr. President, I have only listed a few of the provisions that illustrate the scope and importance of this legislation, even though it is called a "technical corrections" bill. Again, despite its technical nature, this bill will provide important assistance to rural areas and other health care providers, and help children and families get the services they need.

Mr. MOYNIHAN. Mr. President, I urge Senators to support enactment of H.R. 5252, the Social Security Act Amendments of 1994, which was reported by the Finance Committee on November 17 of last year, and was passed by the House just yesterday.

The bill contains a number of important technical corrections and miscellaneous Social Security Act provisions that enjoy bipartisan support in both the Senate and the House. These provisions could not be included in the Omnibus Reconciliation Act of 1993 because they had no budgetary impact. Under the strict rules of budget reconciliation in the Senate, any provision that has no impact on Federal spending is subject to a point of order.

While the Finance Committee excluded these provisions from its budget package, the House of Representatives passed many of these provisions as part of its 1993 budget package. In conference last year, the chairman of the Committee on Ways and Means and I agreed to develop a separate bill to include all the budget-neutral, noncontroversial provisions that could not be included in the 1993 budget reconciliation legislation. The result is the bill before us today.

H.R. 5252 includes provisions that will make substantial improvements in Social Security Act programs. It will improve the enforcement of child support, assure better protection of abused and neglected children, extend the Medicare select demonstration programs which allow Medicare beneficiaries to participate in managed health care plans, and make other improvements in the Medicare Program.

The bill also includes the Welfare Indicators Act, a bill which I sponsored, and which will begin to generate the information needed to understand the problem of welfare dependency. It requires the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture, to develop, first, indicators of the rate at which, and the degree to which, families depend on income from welfare programs, and the duration of welfare participation; and second, predictors of welfare receipt. The Secretary will be required to prepare an annual report on welfare receipt that provides information on trends, predictors, and causes of welfare receipt, including recommendations for legislation to reduce welfare recipiency.

Mr. DODD. Mr. President, I rise to address an issue of concern to me and many others in this Chamber. I am referring to the Medigap amendments contained in the Social Security

Amendments Act of 1993. I am concerned about the potential negative impact of a certain provision on the innovative public/private long-term care insurance partnership programs now underway in my State of Connecticut, in Indiana, California, and New York, and in projects being developed in the States of Maryland, Illinois, and Iowa. These programs are designed to provide cost-effective long-term care coverage to middle income people.

It is my understanding that while the Medigap amendments legislation is not intended to put a halt to these programs or to have a negative impact on such programs, this may be the unintended result of the legislation before us.

The Partnership Program involves long-term care policies which coordinate benefits with the Medicare Program. This means that such policies will combine with Medicare to pay maximum benefits but not more than 100 percent of the cost, as this would be against good public policy. This coordination feature reduces cost and therefore helps produce more affordable coverage.

However, I further understand that because the majority of long-term care policies sold to seniors do not so coordinate with Medicare, the legislation might be read by some in a way that assumes that coordination is not the norm. Since coordination is a critical issue for Connecticut and other partnership States and because I believe there is no intent on the part of the Senate Finance Committee to ban coordination of benefits, I would hope that the committee chairman might clarify this point.

Mr. MOYNIHAN. I understand the concern of the Senator from Connecticut and the issue he raises regarding how coordination is to be addressed. Because these amendments are not effective until after regulations have been published, there is ample time to work with the Senator and the administration to ensure an appropriate outcome to the regulatory process regarding this issue. It is my hope that the regulatory process will address the issue of coordination in a way that encourages cost-effective long-term care coverage, including the public private partnership programs in Connecticut, Indiana, California, New York, and other States. I do not intend that this legislation halt such cost-effective programs.

It must also be stressed that it is important for these Medigap amendments to pass the Senate today because without these amendments which passed both the House and Senate already in 1992, the underlying statute makes it clearly illegal to sell health insurance policies that duplicate Medicare benefits. Therefore, even though there may be questions about the implications of some of these new provisions, it is of utmost importance that we clarify the underlying statute by passing this bill, so that people in need of insurance benefits can purchase them.

Mr. DORGAN. Mr. President, I rise in support of H.R. 5252, the proposed extension of the Medicare select demonstration project.

Medicare select is a 15-State demonstration project that allows Medicaid beneficiaries to buy their supplemental insurance, known as "Medigap" policies, through managed care plans. This demonstration project has been very successful, in my State of North Dakota and the other 14 States, at keeping supplemental premiums low. In North Dakota, Medicare select policies are 16 percent less expensive than identical, supplemental policies.

The Medicare select demonstration project expired a few days ago, at the end of the last fiscal year. The project would have been extended by any of the major health care reform bills considered this year. By extending the Medicare select program today, 400,000 Medicare beneficiaries nationwide, including 10,000 North Dakotans, will be able to keep their Medicare select policies, rather than be forced to buy more expensive supplemental insurance.

If we had let this program expire, it would have cost each of these 10,000 North Dakota senior citizens about $144 per year more than they are paying now. This is a total of $1.44 million right out of their pockets. They are not wealthy folks. These are primarily retired people who live on fixed incomes. They already are spending a substantial portion of their limited income on health care—including copayments, deductibles, prescription drugs.

Medicare select helps these people make ends meet. It means they have a little extra money each month to pay for their medicine—to buy winter clothes—or maybe to have a holiday dinner.

I am glad we did not penalize our senior citizens by failing to act. I thank my colleagues for joining me in supporting this legislation to extend the highly successful Medicare select demonstration project.

Mr. FEINGOLD. Mr. President, I was pleased to see that H.R. 5252 has passed the Senate without a provision, included in earlier versions of the measure, intended to change current law with respect to so-called estate recoveries under medical assistance.

Last year, we enacted a change to the estate recovery law as part of the Omnibus Budget Reconciliation Act of 1993 [OBRA 93]. OBRA 93 allows States to recover, from the estates of Medicaid beneficiaries over age 55, either the cost of Medicaid nursing home services, home and community-based services, hospital services, and prescription drug services, or the cost of other services provided under the State Medicaid plan.

An effort was made, in earlier versions of this legislation in the Senate, to change the law as it relates to this provision. In particular, the proposed change would have limited State options with respect to estate recoveries by mandating that States pursue recovery for certain specified services, including home and community-based services.

As we saw in Wisconsin, requiring liens to be attached to the homes of elderly disabled individuals has a cruel, unintended result. When that policy was implemented briefly in Wisconsin in 1991 with respect to home and community-based services, scores of elderly disabled individuals in need of long-term care refused home and community-based services because of the estate recovery requirements, with the result that many of these people were at risk of imminent placement in institutional settings, settings that are often much more expensive to taxpayers.

Fortunately, the Wisconsin Legislature repealed the measure, removing a significant barrier to the less expensive home and community-based long-term care alternative.

Mr. President, we need comprehensive long-term care reform. Specifically, we need a home and community-based program of flexible, consumer-oriented and consumer-directed services. But until we pass that kind of reform, our home and community waiver programs will be the closest alternative that the disabled of all ages will have. It is vital that we make those services as accessible as possible for that population.

THE ALEUTIAN AND PRIBILOF RESTITUTION ACT AMENDMENT ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. BUMPERS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1457) to amend the Aleutian and Pribilof Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II.

The PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1457) entitled "an Act to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. INCREASE IN AUTHORIZATIONS.

(a) IN GENERAL.—Section 205(d)(4) of the Aleutian and Pribilof Islands Restitution

Act (50 U.S.C. App. 1989c–4(d)(4)) is amended by striking "$1,400,000" and inserting "$4,700,000".

(b) FUND.—If the Fund referred to in section 205(a) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–4(a)) has been terminated pursuant to section 203(d) of such Act (50 U.S.C. App. 1989c–2(d)), upon the appropriation of additional funds pursuant to this Act, the Fund shall be reestablished.

(c) USE OF FUNDS.—The funds appropriated pursuant to this Act shall be used solely for the renovation, replacement, and restoration of Church property lost, damaged, or destroyed during World War II.

Mr. BUMPERS. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DEPORTATION OF ALIENS

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 284, a resolution submitted earlier today by Senators DECONCINI and SIMPSON, relating to the deportation of aliens; that the resolution be agreed to; that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the resolution (S. Res. 284) was agreed to, as follows:

S. RES. 284

Resolved, That (a) it is the sense of the Senate that—

(1) the Attorney General should consider implementing, through awarding start-up administrative grants to appropriate not-for-profit organizations, a pilot program at processing centers of the Immigration and Naturalization Service for the purpose of increasing efficiency and cost savings in the processing and removal of aliens held in custody by assuring orientation and representation for such aliens;

(2) these pilot projects should be developed in consultation with the Commissioner of the Immigration and Naturalization Service, the Executive Office of Immigration Review (EOIR), and appropriate not-for-profit organizations having relevant experience;

(3) one such project currently operating in Arizona at the Florence Service Processing Center is a good model for implementing such a pilot program because of its working relationship with the Immigration and Naturalization Service, the Executive Office of Immigration Review, and a not-for-profit organization; and

(4) an evaluation component should be included in any such pilot program to test the efficiency, the cost effectiveness, the services provided, and the replicability in future years to additional processing centers of the Immigration and Naturalization Service.

(b) It is further the sense of the Senate that nothing in this resolution should be construed as creating a right to be represented at the expense of the Government.

FOR PRIVATE RELIEF OF WAYNE NARAYSINGH

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed to the immediate consideration of H.R. 2266, a bill for the private relief of Wayne Naraysingh; that the bill be deemed read a third time, passed, that the motion to reconsider be laid upon the table and that any statements appear at the appropriate place in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 2266) was deemed read a third time and passed.

INDIAN LANDS OPEN DUMP CLEAN-UP ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. BUMPERS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 720) to clean up open dumps on Indian lands, and for other purposes.

The PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 720) entitled "An Act to clean up open dumps on Indian lands, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Lands Open Dump Cleanup Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are at least 600 open dumps on Indian and Alaska Native lands;

(2) these dumps threaten the health and safety of residents of Indian and Alaska Native lands and contiguous areas;

(3) many of these dumps were established or are used by Federal agencies such as the Bureau of Indian Affairs and the Indian Health Service;

(4) these dumps threaten the environment;

(5) the United States holds most Indian lands in trust for the benefit of Indian tribes and Indian individuals; and

(6) most Indian tribal governments and Alaska Native entities lack the financial and technical resources necessary to close and maintain these dumps in compliance with applicable Federal laws.

(b) PURPOSES.—The purposes of this Act are to—

(1) identify the location of open dumps on Indian lands and Alaska Native lands;

(2) assess the relative health and environmental hazards posed by such dumps; and

(3) provide financial and technical assistance to Indian tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CLOSURE OR CLOSE.—The term "closure or close" means the termination of operations at open dumps on Indian land or Alaska Native land and bringing such dumps into compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards and regulations.

(2) DIRECTOR.—The term "Director" means the Director of the Indian Health Service.

(3) INDIAN LAND.—The term "Indian land" means—

(A) land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(B) dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(C) Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(4) ALASKA NATIVE LAND.—The term "Alaska Native land" means (A) land conveyed or to be conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.), including any land reconveyed under section 14(c)(3) of that Act (43 U.S.C. 1613(c)(3)), and (B) land conveyed pursuant to the Act of November 2, 1966 (16 U.S.C. 1151 et seq.; commonly known as the "Fur Seal Act of 1966").

(5) INDIAN TRIBAL GOVERNMENT.—The term "Indian tribal government" means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) ALASKA NATIVE ENTITY.—The term "Alaska Native entity" includes native corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.) and any Alaska Native village or municipal entity which owns Alaska Native land.

(7) OPEN DUMP.—The term "open dump" means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) and which is not a facility for disposal of hazardous waste.

(8) POSTCLOSURE MAINTENANCE.—The term "postclosure maintenance" means any activity undertaken at a closed solid waste management facility on Indian land or on Alaska Native land to maintain the integrity of containment features, monitor compliance with applicable performance standards, or remedy any situation or occurrence that violates regulations promulgated pursuant to subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

(9) SERVICE.—The term "Service" means the Indian Health Service.

(10) SOLID WASTE.—The term "solid waste" has the meaning provided that term by section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903) and any regulations promulgated thereunder.

SEC. 4. INVENTORY OF OPEN DUMPS.

(a) STUDY AND INVENTORY.—Not later than 12 months after the date of enactment of this Act, the Director shall conduct a study and inventory of open dumps on Indian lands and Alaska Native lands. The inventory shall list the geographic location of all open dumps, an evaluation of the contents of each dump, and an assessment of the relative severity of the threat to

public health and the environment posed by each dump. Such assessment shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made by any such assessment.

(b) ANNUAL REPORTS.—Upon completion of the study and inventory under subsection (a), the Director shall report to the Congress, and update such report annually—

(1) the current priority of Indian and Alaska Native solid waste deficiencies,

(2) the methodology of determining the priority listing,

(3) the level of funding needed to effectively close or bring into compliance all open dumps on Indian lands or Alaska Native lands, and

(4) the progress made in addressing Indian and Alaska Native solid waste deficiencies.

(c) 10-YEAR PLAN.—The Director shall develop and begin implementation of a 10-year plan to address solid waste disposal needs on Indian lands and Alaska Native lands. This 10-year plan shall identify—

(1) the level of funding needed to effectively close or bring into compliance with applicable Federal standards any open dumps located on Indian lands and Alaska Native lands; and

(2) the level of funding needed to develop comprehensive solid waste management plans for every Indian tribal government and Alaska Native entity.

SEC. 5. AUTHORITY OF THE DIRECTOR OF THE INDIAN HEALTH SERVICE.

(a) RESERVATION INVENTORY.—(1) Upon request by an Indian tribal government or Alaska Native entity, the Director shall—

(A) conduct an inventory and evaluation of the contents of open dumps on the Indian lands or Alaska Native lands which are subject to the authority of the Indian tribal government or Alaska Native entity;

(B) determine the relative severity of the threat to public health and the environment posed by each dump based on information available to the Director and the Indian tribal government or Alaska Native entity unless the Director, in consultation with the Indian tribal government or Alaska Native entity, determines that additional actions such as soil testing or water monitoring would be appropriate in the circumstances; and

(C) develop cost estimates for the closure and postclosure maintenance of such dumps.

(2) The inventory and evaluation authorized under paragraph (1)(A) shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made under paragraph (1)(B).

(b) ASSISTANCE.—Upon completion of the activities required to be performed pursuant to subsection (a), the Director shall, subject to subsection (c), provide financial and technical assistance to the Indian tribal government or Alaska Native entity to carry out the activities necessary to—

(1) close such dumps; and

(2) provide for postclosure maintenance of such dumps.

(c) CONDITIONS.—All assistance provided pursuant to subsection (b) shall be made available on a site-specific basis in accordance with priorities developed by the Director. Priorities on a specific Indian lands or Alaska Native lands shall be developed in consultation with the Indian tribal government or Alaska Native entity. The priorities shall take into account the relative severity of the threat to public health and the environment posed by each open dump and the availability of funds necessary for closure and postclosure maintenance.

SEC. 6. CONTRACT AUTHORITY.

(a) AUTHORITY OF DIRECTOR.—To the maximum extent feasible, the Director shall carry out duties under this Act through contracts, compacts, or memoranda of agreement with Indian tribal governments or Alaska Native entities pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), or section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632).

(b) COOPERATIVE AGREEMENTS.—The Director is authorized, for purposes of carrying out the duties of the Director under this Act, to contract with or enter into such cooperative agreements with such other Federal agencies as is considered necessary to provide cost-sharing for closure and postclosure activities, to obtain necessary technical and financial assistance and expertise, and for such other purposes as the Director considers necessary.

SEC. 7. TRIBAL DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Director may establish and carry out a program providing for demonstration projects involving open dumps on Indian land or Alaska Native land. It shall be the purpose of such projects to determine if there are unique cost factors involved in the cleanup and maintenance of open dumps on such land, and the extent to which advanced closure planning is necessary. Under the program, the Director is authorized to select no less than three Indian tribal governments or Alaska Native entities to participate in such demonstration projects.

(b) CRITERIA.—Criteria established by the Director for the selection and participation of an Indian tribal government or Alaska Native entity in the demonstration project shall provide that in order to be eligible to participate, an Indian tribal government or Alaska Native entity must—

(1) have one or more existing open dumps on Indian lands or Alaska Native lands which are under its authority;

(2) have developed a comprehensive solid waste management plan for such lands; and

(3) have developed a closure and postclosure maintenance plan for each dump located on such lands.

(c) DURATION OF FUNDING FOR A PROJECT.—No demonstration project shall be funded for more than three fiscal years.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) COORDINATION.—The activities required to be performed by the Director under this Act shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

SEC. 9. DISCLAIMERS.

(a) AUTHORITY OF DIRECTOR.—Nothing in this Act shall be construed to alter, diminish, repeal, or supersede any authority conferred on the Director pursuant to section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632), and section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

(b) EXEMPTED LANDS AND FACILITIES.—This Act shall not apply to open dump sites on Indian lands or Alaska Native lands—

(1) that comprise an area of one-half acre or less and that are used by individual families on lands to which they hold legal or beneficial title;

(2) of any size that have been or are being operated for a profit; or

(3) where solid waste from an industrial process is being or has been routinely disposed of at a privately owned facility in compliance with applicable Federal laws.

(c) RULES OF CONSTRUCTION.—(1) Nothing in this Act shall be construed to amend or modify the authority or responsibility of the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Nothing in this Act is intended to amend, repeal, or supersede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

Mr. BUMPERS. Mr. President, I move that the Senate concur in the amendment of the House,

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I ask unanimous consent that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WINDOW ROCK, AZ SCHOOL DISTRICT

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5220, a bill relating to the Window Rock, AZ School District, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; further that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5220) was deemed read three times and passed.

Mr. DECONCINI. Mr. President, I rise today in support of H.R. 5220, which addresses an urgent situation facing one of Arizona's school districts, Window Rock Unified School District No. 8, located in the capital of the Navajo nation. This bill simply allows the Secretary of Education to accept district No. 8's application for impact Aid funds as if it was timely received. Unbeknownst to District No. 8 until recently, their application for Impact Aid funds was lost in the mail.

The Navajo Indian Reservation, including this district, is extremely dependent on Impact Aid funding which compromises about 30 percent of its annual; budget. Without this bill, the district will lose approximately $10 million of their fiscal year 1994 and fiscal year 1995 funds. As we all know, Impact Aid funds were created to serve children whose parents live or work on Federal property not subject to property taxes. These funds allow Window Rock to educate approximately 3,200 students annually almost all of whom are native Americans. However, the loss of these funds would be devastating to a community already hit with

numerous socio-economic burdens. Therefore, I urge my colleagues to join me in support of this bill which will assist the administrators, staff and, most importantly, the children of Window Rock Unified School District.

THE 50TH ANNIVERSARY OF THE REALTORS LAND INSTITUTE

Mr. LOTT. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of Senate Resolution 243, regarding the 50th anniversary of the Realtors Land Institute, and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 243) recognizing the Realtor Land Institute on the occasion of its 50th anniversary.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I offer as an amendment to Senate Resolution 243, a resolution which recognizes the Realtors Land Institute [RLI] on the occasion of its 50th anniversary.

Before I address the importance of this legislation, I would like to explain why I am offering it as an amendment now. Commemorative legislation is normally referred to the Judiciary Committee. However, the Parliamentarian referred Senate Resolution 243 to the Committee on Banking, Housing, and Urban Affairs. Their rationale was that commemorative legislation only goes to the Judiciary Committee if it designates a specific day or period of time for the commemoration. Because Senate Resolution 243 is a general recognition of the 50th anniversary of the RLI, it does not designate a specific day or period of time for commemoration. Thus, Senate Resolution 243 was referred to the Committee on Banking, Housing, and Urban Affairs since the subject matter falls under the jurisdiction of that committee.

The Committee on Banking, Housing, and Urban Affairs has not had a markup since Senate Resolution 243 was introduced on July 14, 1994, nor do they have one scheduled. Since there will not be an opportunity for the committee to formally consider this resolution, I am offering it as an amendment. The ranking member of the committee, Senator D'AMATO, is a cosponsor of the resolution. According to his staff, he does not object to my offering this as an amendment.

I did want to address why I am approaching this in this manner. Now, let me explain the importance of this resolution.

The RLI was founded by 20 land specialists who met at the Drake Hotel in Chicago in 1944. The purpose of their meeting was to establish a national professional trade association dedicated to the advancement of the effective use of our most precious commodity—land.

The RLI has been an affiliate of the National Association of Realtors for 50 years and is devoted to advancing the interests of those who are involved in various phases of land development and proper land utilization.

The RLI is comprised of members who subscribe to a strict code of ethics and to just and equitable principles in real estate transactions. The organization provides education, information, marketing opportunities, and broker networking to enhance members abilities to conduct their business as recognized professional land use specialists.

For 50 years, the RLI has helped their members better serve their clients, their communities, and their industry. Now, on their 50th anniversary, they are renewing their commitment to service and focusing on the future. This is illustrated by their theme for this anniversary year, "Celebrating the past—Welcoming the future."

Congress should commend the RLI on their myriad of achievements over the last 50 years by honoring them with this commemorative resolution. I invite my colleagues to join me in honoring them for their 50 years of outstanding service by supporting this amendment.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 243) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 243), with its preamble, is as follows:

S. RES. 243

Whereas, in 1944, the REALTORS® Land Institute was founded by 20 land specialists who met at the Drake Hotel in Chicago, Illinois, to establish a national organization that would provide education, information, marketing opportunities, and broker networking to enhance the ability of their members to conduct business as recognized professional land use specialists and, through collective action, preserve private property rights;

Whereas the REALTORS® Land Institute has been an affiliate of the National Association of REALTORS® for 50 years;

Whereas, in 1994, the REALTORS® Land Institute celebrates 50 years of serving land owners, users, and realtors throughout the United States and Canada;

Whereas the REALTORS® Land Institute members have developed international marketing capabilities and networks throughout the world;

Whereas the REALTORS® Land Institute is comprised of members who subscribe to a strict code of ethics and to just and equitable principles in real estate transactions;

Whereas the REALTORS® Land Institute encourages continuing education and rewards members who complete an extensive education program and service to the land industry with a national designation of Accredited Land Consultant (ALC); and

Whereas the REALTORS® Land Institute is a national professional trade association, dedicated to advancing the effective use of our most precious commodity, land: Now, therefore, be it

Resolved, That the Senate recognizes the REALTORS® Land Institute on the occasion of its 50th Anniversary.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the REALTORS® Land Institute.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2135, the Native American Veterans' Memorial Establishment Act of 1994, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 2135) was deemed read three times and passed.

PROVIDING FOR THE ANNUAL PUBLICATION OF A LIST OF FEDERALLY RECOGNIZED INDIAN TRIBES

Mr. BUMPERS. Mr. President, I ask unanimous consent that the earlier action on H.R. 4180, a bill relating to the recognition of Alaskan Native Indian Tribes, be vitiated; that the Senate then proceed to its immediate consideration, the bill be read three times, passed, and the motion to reconsider be laid upon the table; and, further, that any statements on this measure appear in the RECORD at the appropriate place, as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 4180) was passed.

RELATING TO PATENT INFRINGEMENT

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar Order No. 681, S. 2272, a bill relating to patent infringement.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2272) to amend Chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Arkansas?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an aamendment to strike all after the enacting clause and inserting in lieu the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Prior User Rights Act of 1994".

SEC. 2. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR USE.

(a) IN GENERAL.—Chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§273. Rights based on prior use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section, the term—

"(1) 'commercially used' means the use in interstate or intrastate commerce, including the use of processes, equipment, tooling, and intermediate materials in the design, testing, or production of commercial products whether or not such processes, equipment, tooling, and intermediate materials are normally accessible, available, or otherwise known to the public;

"(2) 'effective and serious preparation' means that a person has, in the United States—

"(A) actually reduced to practice the subject matter for which rights based on prior use are claimed; and

"(B) made serious plans, and a substantial investment or a substantial portion of the total investment necessary for the subject matter to be commercially used; and

"(3) 'effective filing date' means the earlier of the actual filing date of the application for patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under sections 119, 120, or 365 of this title.

"(b) IN GENERAL.—A person shall not be liable as an infringer under section 271 of this title with respect to any subject matter claimed in the patent being asserted that such person had, acting in good faith, commercially used in the United States or made effective and serious preparation therefore in the United States, before the effective filing date.

"(c) LIMITATION OF DEFENSE.—Rights based on prior use under this section are not a general license under all claims of the patent, but subject to subsection (d), extend only to the claimed invention that the person claiming rights based on prior use was in possession of prior to the effective filing date.

"(d) CERTAIN VARIATIONS AND IMPROVEMENTS NOT AN INFRINGEMENT.—The rights based on prior use under this section shall include the right to vary the quantity or volume of commercial use or to make improvements that do not infringe additional claims of the patent.

"(e) QUALIFICATIONS.—(1) The rights based on prior use under this section are personal and shall not be licensed or assigned or transferred to another except in connection with the good faith assignment or transfer of the entire business or enterprise or the entire line of business or enterprise to which the rights relate.

"(2) A person may not claim rights based on prior use under this section if the activity under which such person claims the rights was—

"(A) based on information obtained or derived from the patentee or those in privity with the patentee; or

"(B) abandoned on or after the effective filing date, except that for abandonment which occurs after the effective filing date, rights based on prior use may be used as a defense to infringement for that period of activity which occurred prior to abandonment if such activity would otherwise, in the absence of abandonment, have been allowed under this section.

"(f) BURDEN OF PROOF.—In any action in which a person claims a defense to infringement under this section the burden of proof for establishing the defense shall be on the person claiming rights based on prior use.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following:

"273. Rights based on prior use; defense to infringement.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 2655

(Purpose: To amend Chapter 28 of title 35, United States Code, to proivde a defense to patent infringement based on prior use by certain persons, and for other purposes)

Mr. BUMPERS. Mr. President, on behalf of Senator DECONCINI, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for Mr. DECONCINI, proposes an amendment numbered 2655.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Prior User Rights Act of 1994".

SEC. 2. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR USE.

(a) IN GENERAL.—Chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 273. Rights based on prior use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercially used' means used in the production of commercial products, whether or not the processes, equipment, tooling, or other materials so used are normally accessible, available, or otherwise known to the public;

"(2) the term 'effective and serious preparation' means that a person has—

"(A) actually reduced to practice the subject matter for which rights based on prior use are claimed; and

"(B) made a substantial portion of the total investment necessary, for the subject matter to be commercially used; and

"(3) the 'effective filing date' of an application for patent is the earlier of the actual filing date of the application or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under sections 119, 120, or 365 of this title.

"(b) IN GENERAL.—

"(1) DEFENSE.—A person shall not be liable as an infringer of a patent under section 271 of this title with respect to any subject matter claimed in the patent that such person had commercially used in the United States, or made effective and serious preparation therefor in the United States, before the effective filing date of the application for the patent.

"(2) GOOD FAITH PURCHASERS.—A person who purchases in good faith a product that results directly from a use or preparation therefor described in paragraph (1) shall not be liable as an infringer for continuing the use of the product purchased, or for selling to another person the product purchased.

"(c) LIMITATION OF DEFENSE.—Rights based on prior use under this section are not a general license under all claims of the patent, but, subject to subsection (d), extend only to the claimed subject matter that the person asserting the defense based on prior use had commercially used or made effective and serious preparation therefor before the effective filing date of the application for the patent.

"(d) CERTAIN VARIATIONS AND IMPROVEMENTS NOT AN INFRINGEMENT.—The rights under this section based on prior use shall include the right to vary quantities or volumes, or to make improvements, that do not infringe claims other than those claims that, but for subsection (b), would have been infringed as of the effective date of the application for patent.

"(e) QUALIFICATIONS.—

"(1) RIGHTS ARE PERSONAL.—The rights under this section based on prior use are personal and may not be licensed or assigned or transferred to any other person except in connection with the good faith assignment or transfer of the entire business or enterprise or the entire line of business or enterprise to which the rights relate.

"(2) EXCLUSIONS.—(A) A person may not claim rights under this section based on prior use if the activity under which such person claims the rights was based on information obtained or derived from the patentee or those in privity with the patentee.

"(B) If the activity under which a person claims rights under this section based on prior use is abandoned on or after the effective filing date of the application for the patent, such person may claim such rights only for that period of activity which occurred before abandonment.

"(f) BURDEN OF PROOF.—In any action in which a person claims a defense to infringement under this section, the burden of proof for establishing the defense shall be on the person claiming rights based on prior use.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following:

"273. Rights based on prior use; defense to infringement.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXISTING PATENT CLAIMS.—This Act and the amendments made by this Act shall apply to any action for infringement that is brought, on or after the date of the enactment of this Act, by a patentee in a case in which the effective filing date (as defined in section 273(a)(2) of title 35, United States Code) of the application for patent is before such date of enactment, only if—

(1) no other action for the same act or acts of infringement was brought before such date of enactment, and

(2) there has been no notice of infringement under section 287 of title 35, United

States Code, as of October 1, 1994, with respect to the same act or acts of infringement.

(c) EQUITABLE COMPENSATION.—In any action for infringement to which subsection (b) applies and in which the defense of prior user rights under section 273 of title 35, United States Code (as added by this Act), is asserted and determined to be valid by the court, the court may grant equitable compensation to the patentee, notwithstanding subsection (b) of such section 273. Such equitable compensation may be based on all actions of the person asserting the defense that were carried out after notice of infringement under section 287 of title 35, United States Code, which would constitute infringement of the patent but for section 273 of such title (as added by this Act).

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

The amendment (No. 2655) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the committee substitute was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 2272), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUATION OF CERTAIN FEE COLLECTIONS FOR THE SECURITIES AND EXCHANGE COMMISSION

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5060, a bill to continue certain SEC fee collections, just received from the House; that bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and, further, that any statements on this measure appear in the RECORD at the appropriate place, as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5060) was deemed read three times, and passed.

Mr. MOYNIHAN. Mr. President, under the current circumstances, there is little choice but to support this legislation to provide adequate funding for the Securities and Exchange Commission [SEC] for fiscal year 1995. However, as chairman of the Finance Committee, I have significant concerns about the Appropriations Committee, I have significant concerns about the Appropriations Committee increasing fees for an agency which is already raising considerably more money than it spends. This action involves the Appropriations Committee in a matter which has clear revenue-raising implications and I will seek to avert in the future any repetition of this situation. Let me take a few minutes to explain to the Senate the circumstances which have brought us to this point.

The SEC collects fees for the registration of securities, the filing of certain documents, transactions in stock exchanges, and certain other activities under its regulatory jurisdiction. Since fiscal year 1983, the fees collected have substantially exceeded the amount of SEC's annual funding requirements. In fact, in fiscal years 1986, 1987, 1994, the fees collected were more than double the agency's funding requirements.

Until recently, all SEC fees were deposited in the general fund of the Treasury as revenues and the SEC was funded entirely through the annual appropriations process. However, due to increasing budgetary pressures on discretionary spending, beginning fiscal year 1991, the Appropriations Committee began providing part of the SEC's annual funding requirements by increasing the rate of registration fees under section 6(b) of the Securities Act of 1933 and classifying the incremental increase as offsetting collections—that is, funds available to the agency without further appropriation.

The Appropriations Committee's recent practice of providing part of the SEC's funding requirements through increases in the section 6(b) fees has increased those particular fees from a rate of1/50th of 1 percent in 1989, to 1/40th in 1990 and 1991; 1/32 of 1 percent in 1992 and 1993; and 1/29th in 1994. Due to these actions,the aggregate section 6(b) fees collected increased from $109 million in fiscal year 1989 to an estimated $457 million 1994.

This combination of circumstances has produced the current anomalous situation where the Appropriations Committee for the last 4 years has imposed additional fees to fund the operations of an agency which was already bringing in substantially more money than it was spending.

Mr. President, as chairman of the Finance Committee, I am well aware of the budgetary pressures on the Appropriations Committee which has led that committee to seek additional sources of funding. However, when an agency is already raising more fees than its total budget, it is clear that its fees are being used for revenue-raising—a matter within the jurisdiction of the Committee on Finance.

Therefore, while current circumstances require passage of these SEC fee increases to fund that agency for fiscal year 1995, I will resist similar increases in the future as a means of supplementing annual appropriations. I look forward, next year, to working with my colleague so the appropriations and banking committees to find a reasonable formula for ensuring adequate annual funding of the SEC without recourse to revenue legislation.

AMENDING THE FOREIGN ASSISTANCE ACT OF 1961

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5246, a bill making certain corrections relating to international narcotics control activities, just received from the House; that bill be read a third time and passed, the motion to reconsider laid upon the table, and any statements thereon appear in the RECORD at the appropriate place, as though read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5246) was passed.

PHASING IN IMPLEMENTATION OF FOREST MANAGEMENT PLANS BY THE DEPARTMENT OF AGRICULTURE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate turn to the immediate consideration of S. Res 285, a resolution submitted by Senator LOTT and others, expressing the sense of the Senate concerning phasing in implementation of forest management plans by the Department of Agriculture; that the resolution be adopted; that the motion to reconsider be laid upon the table; and that a statement by Senator LOTT appear in the RECORD, as if read.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the resolution (S. Res. 285) was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

Mr. LOTT. Mr. President. My resolution is straightforward. It ensures that common sense and economic issues are factored into implementing policies which change Forest Management Plans.

My resolution is necessary to preclude devastating economic impacts

from public policies which amend or revise a forest plan to increase the population of a species to a specific number in a particular national forest or district. These policies reduce annual timber harvests and produce significant job losses and financial ruin for many small communities. This is wrong.

My approach is to head off adverse economic consequences before implementation by anticipating problems. It makes sense to create a smooth glide path for timber-dependent communities as Forest Management Plans are changed. It makes double sense to do this up front, not after families and communities have been disrupted and devastated.

My effort will restore the essential balance which the Forest Service must maintain. The Forest Service must not emphasize a single resource at the expense of other resources.

Let me first start by telling my colleagues what my resolution will not do. It will not gut any environmental policies. It will not jeopardize any efforts to protect endangered species. In fact, I believe it will cause a greater public acceptance and respect for environmental policies.

Let me share with my colleagues a hypothetical example of how this resolution will enhance current public policy. My illustration involves efforts to increase the population of a species to a specific number in a particular forest or district: First my resolution does not challenge that a habitat foraging area is required to support a species; second, my resolution leaves in place the decision that the total habitat area will be set aside when the target population is reached; third, my resolution provides for a phased-in set-aside commensurate with the current population of the species plus a reasonable annual increase based on biological and financial resources realistically available; fourth, my resolution provides a smooth path for absorbing the economic consequences of the set-aside and permit adjustments by all affected parties; and fifth, my amendment is a cash-flow approach.

It will just add a basic rational dimension to the implementation process for changes to Forest Management Plans, both pending and in the future. My approach is both reasonable and realistic. It is responsible legislating.

It will require the Forest Service to examine, consider, and publicly comment on the following issues before it modifies a Forest Management Plan to provide a protected habitat for any endangered or threatened species increased beyond that currently occupied: First, feasible biological resource which would be annually available to increase the population over time from existing population, by introduction of additional populations from outside the particular forest, or both; second, realistic financial resources—appropriations—which would be annually available to increase the population; third, alternative implementation schedules which reflect both feasible biological potential and realistic appropriations; fourth, the social and economic costs associated with each alternative implementation schedule; and fifth, selection of the alternative which is feasible biologically, realistic financially, and minimizes social and economic impacts.

My legislative intent is clear. It is to require the Forest Service to add a logical step in its decision process to ensure that up-front analysis of the social and economic consequences is incorporated into the modification of a Forest Management Plan. It does not challenge or prohibit the policies which protect our public forests. It recognizes and explicitly acknowledges that our National Forests have a multiple-use mission which cannot be ignored.

The Forest Service, under current policies, would immediately set aside the full habitat area for foraging even though the species population would not require this area for well into the next century. This is neither environmentally nor economically sound. It is an arrogant abuse of public assets entrusted to the Forest Service. I believe current Forest Service practices reinforce hostility toward environmental policies, and this is counterproductive.

I hope you will support my sense of the Senate for economic sanity as Forest Management Plans are modified. It assists any State with a national forest. It respects both the environment and communities by offering a prudent and balanced approach.

AMENDING THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5161, a bill making a technical correction regarding the prompt sharing of timber sale receipts, just received from the House; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this matter be printed in the RECORD at the appropriate place.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the bill (H.R. 5161) was passed.

MARYLAND-WEST VIRGINIA INTERSTATE COMPACT

Mr. BUMPERS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 620, Senate Joint Resolution 205, a Maryland-West Virginia Interstate Compact, that the joint resolution be read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Is there objection to the several requests? Hearing no objection, the requests are agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

(The text of the joint resolution will be printed in a future edition of the RECORD.)

CONSENTING TO AMENDMENTS TO THE CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT

GRANTING CONSENT OF CONGRESS TO THE KANSAS AND MISSOURI METROPOLITAN CULTURE DISTRICT COMPACT

Mr. BUMPERS. Mr. President, I now ask unanimous consent the Senate proceed en bloc to the immediate consideration of H.R. 4814, and H.R. 4896, just received from the House, that the bills be read three times, passed en bloc, and that the motions to reconsider be laid upon the table en bloc; further, that any statements on these matters appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Is there objection to the several requests? The Chair hears no objection. The requests are agreed to.

The bills (H.R. 4814 and H.R. 4896) were ordered to a third reading, were read the third time, and passed en bloc.

ESTABLISHING A NATIONAL MARITIME HERITAGE PROGRAM

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3059, the National Marine Heritage Program, received from the House and at the desk, that the bill be read three times, passed, the motion to reconsider be laid upon the table, that any statements relating thereto appear in the RECORD at the appropriate place as if read.

The PRESIDENT pro tempore. Is there objection to the several requests? Hearing no objection, the requests are agreed to.

The bill (H.R. 3059) was ordered to a third reading, was read the third time, and passed.

Mr. COHEN. Mr. President, I rise today to ask for the Senate's support for a House passed measure, H.R. 3059, the National Maritime Heritage Act. I introduced a similar measure, S. 1727, last November.

This measure seeks to protect and preserve America's maritime interests

through competitive grants. This program will use some of the proceeds from scrapping obsolete vessels of the National Defense Reserve Fleet [NDRF].

Our Nation's lighthouses, museums, sea-going vessels and maritime legacies that are so important to our heritage, are rapidly disintegrating. The Nation's traditional maritime skills are diminishing at an alarming rate and public awareness of our maritime history and future has weakened. The National Maritime Heritage Act will prevent further deterioration of America's maritime legacy and restore our precious monuments to a bygone era.

Once the country's maritime connection to the past is lost, an entire culture of the foundation of our country is gone forever. We cannot recreate the steamer Belle of Louisville, the Battleship South Dakota Museum, the Louisiana Naval War Memorial or the Wooden Boats of Seattle. We must accept our responsibility to preserve our Nation's maritime history.

The National Maritime Heritage Act seeks to educate our country within the maritime schools, by making learning tools available, publicizing the maritime interests across the country, and educating the Nation on the many maritime career opportunities, we can restore our maritime history.

The National Maritime Heritage Act establishes a grants program for which all maritime interests may apply. The applicant must hold matching funds to the requested grant. This grants program is funded by using 25 percent of the proceeds from scrapped obsolete vessels of the NDRF. The Merchant Marine Academies will receive 25 percent for training projects and 50 percent will be returned directly to the Maritime Administration for the upkeep of the NDRF.

A National Maritime Grants Committee will be chaired by the Secretary of the Interior, with a regionally balanced advisory committee composed of 13 members of the maritime community. Additionally, a board of advisors will be convened, with members from the National Park Service, Maritime Administration, U.S. Coast Guard, U.S. Navy, National Oceanic and Atmospheric Administration and the Advisory Council on Historic Preservation.

Interested Federal agencies support this measure. There is no known opposition to this legislation. It enjoys the support of 22 cosponsors, and most importantly, has the full support of the Committee on Commerce, and has cleared both sides of the aisle.

Mr. President, I urge the adoption of the National Maritime Heritage Act and ask unanimous consent that this measure be accepted.

PRINTING STATEMENTS IN TRIBUTE TO REPRESENTATIVE JAMIE L. WHITTEN

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to H. Con. Res. 314, a concurrent resolution providing for the printing of statements in tribute to Representative Jamie L. Whitten, that the concurrent resolution be agreed to, the motion to reconsider be laid on the table, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDENT pro tempore. Is there objection to the sundry requests? The Chair hears no objection. It is so ordered.

The Concurrent Resolution (H. Con. Res. 314) was agreed to.

AWARDING THE CONGRESSIONAL GOLD MEDAL TO RABBI SCHNEERSON

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4497, a bill to award the Congressional Gold Medal to Rabbi Schneerson, just received from the House, that the bill be read three times, passed, the motion to reconsider be laid upon the table; further that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Is there objection to the several requests? Hearing no objection, they are agreed to.

The bill (H.R. 4497) was ordered to a third reading, was read the third time, and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

—Calendar 1161. Gary N. Kimble, to be Commissioner of the Administration for Native Americans, Calendar 1225, Robert C. Larson, to be a member of the Thrift Depositor Protection Oversight Board, Calendar 1390. Philip Lader, to be Administrator of the SBA

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation, the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Gary Niles Kimble, of Montana, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services.

RESOLUTION TRUST CORPORATION

Robert C. Larson, of Michigan, to be a Member of the Thrift Depositor Protection Oversight Board for a term of 3 years.

AIR FORCE

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to Title 10 United States Code, section 1370:

To be lieutenant general

Lt. Gen. Buster C. Glosson [redacted] United States Air Force.

The following named officer for appointment in the United States Air Force to the grade of brigadier general under the provisions of title 10, United State Code, section 624:

To be brigadier general

Col. Claude M. Bolton, Jr. [redacted] Regular Air Force.

The following named office for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Edward P. Barry, Jr. [redacted] United States Air Force.

SMALL BUSINESS ADMINISTRATION

Philip Lader of South Carolina, to be Administrator of the Small Business Administration.

STATEMENT ON THE NOMINATION OF PHILIP LADER TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION

Mr. PRESSLER. Mr. President, it is my great pleasure to rise in strong support of the President's nomination of Philip Lader to be the next Administrator of the Small Business Administration. It is not often we get the chance as part of our official duties to stand in support of the nomination of an old friend. However, as ranking member of the Small Business Committee, that is my happy duty today.

I have known Phil since our days together in law school almost 25 years ago. He has a wonderful family in his wife Linda, with whom he cofounded the now-famous Renaissance Weekends, and daughters Mary-Catherine, aged 9, and 7-year-old Whitaker.

Phil's life is an amazing success story. Born of immigrant parents in Queens, NY—his father came to America from Ukraine and his mother from North Africa—he worked hard and distinguished himself from the beginning. He was president of his class at Duke University where he also gained membership in Phi Beta Kappa. From there, he went on to earn his masters from the University of Michigan, studied at Oxford, and obtained a law degree from Harvard. As Senator THURMOND put it so well while introducing him during his confirmation hearing, Phil Lader is one of the most educated men in America.

Since graduating from law school in 1972, Phil Lader has continued to distinguish himself in a number of different areas—including business, education and government. Among his successful business ventures is the world

renown Sea Pines Co., of which he was president. As chief operating officer of the company that developed and operates beautiful and award-winning recreational communities, he has been credited with much of the development that has turned Hilton Head Island, SC, into the world-class destination resort area it is today.

More recently, Phil has served as president of Winthrop college in South Carolina and Bond University in Queensland, Australia—the first private university in that country. His creativity, energy an drive helped those institutions evolve into much more than he found when he started. For instance, I understand that during a year and one-half at the helm of Bond University, he erased a $25 million deficit, increased enrollment by one-third, and raised academic standards to such a level that the university graduated its first Rhodes scholar.

During the Clinton administration, Phil Lader has exercised his special talents in Washington. He has served as Deputy Director for Management at the Office of Management and Budget, where he was chairman of the President's Management Council and the President's Council on Integrity and Efficiency. He also served as chairman of the Policy Committee of the National Performance Review, headed by Vice President GORE and representing the President's "reinventing government" initiative. Most recently, Phil has served as Assistant to the President and White House Deputy Chief of Staff.

In various capacities, Phil has combined talents taken from all three of these areas. He served as a member of South Carolina Governor Richard W. Riley's Jobs/Economic Development Task Force and was the founding director of the South Carolina Jobs/Economic Development Authority. Later he served as chairman of the South Carolina Governor's Small and Minority Business Council.

Phil Lader has met many challenges in his noteworthy career. He is about to take on a new, difficult and challenging task. Although we had a few disagreements, Erskine Bowles was an excellent SBA Administrator. Phil Lader now takes the helm of this agency which still very much needs "reinventing". The agency has been the source of scandals and inefficiencies and needs strong leadership.

If I were to give any advice to my friend, it would be this: Phil, the small business community needs someone who is willing to stand up on such issues as health care reform and say unequivocally: "employer mandates are bad for small business." The community needs a strong Administrator to lead the charge against excessive government regulation and paperwork requirements. The SBA needs a strong leader who will concentrate on its central mission of helping to develop the most dynamic sector of America's economy—small business—and eschew the temptation to turn the position into that of a political spokesperson.

I know you are up to these difficult challenges, Phil. I wish my friend all the best.

STATEMENT ON THE NOMINATION OF PHILIP LADER

Mr. WALLOP. Mr. President, the Senate has just confirmed Philip Lader to head the Small Business Administration. I had grave concerns about this nomination, not because of the man but because of actions by this administration dealing with America's small business men and women. Throughout my career and in particular during the past year I have worked to give small business some relief from excessive regulation by giving teeth to the Regulatory Flexibility Act of 1980. This year I successfully amended the National Competitiveness Act, S. 4, to allow judicial review of agency determinations made pursuant to the Reg Flex Act. The Senate passed my amendment by an overwhelming margin affirming the Senate's commitment to protecting small business from abusive government regulation. The House voted to instruct conferees to retain the language in my amendment with the strongest possible bipartisan support.

Unfortunately, administration bureaucrats worked behind the scenes to gut the small business amendment by watering down the language. The National Competitiveness Act died because of other controversies in that bill. While I believe the act received a just fate, I was disappointed that my small business amendment died with it. Therefore, I attempted to move a free standing measure through Congress. Again, efforts were thwarted by people more concerned with the needs of bureaucracy than costs imposed on small businesses, America's job creators. However, I reached an agreement with the White House and have received a personal commitment from the President supporting my remedies to strengthen the Reg Flex Act in the next Congress. In addition, I have received commitments from White House Chief of Staff, Leon Panetta, as well as Mr. Lader. I ask unanimous consent that those letters be included for the RECORD.

These letters show that the administration will now work with small business to pursue legislation which contains strong judicial review and strong legal remedies that will allow judges to stay burdensome regulations. This is a small but important step towards insuring that the competitiveness of small business is determined in the market place, not some bureaucrat's office.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: My Administration strongly supports judicial review of agency determinations under the Regulatory Flexibility Act, and I appreciate your leadership over the past years in fighting for this reform on behalf of small business owners.

Although legislation establishing such review was not enacted during the 103rd Congress, my Administration remains committed to securing this very important reform. Toward that end, my Administration will continue to work with the Congress and the small business community next year for enactment of a strong judicial review that will permit small businesses to ignore the protections afforded by this statute.

As you know, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Again, thank you for continued leadership in this area.

Sincerely,

BILL CLINTON.

SMALL BUSINESS ADMINISTRATION,
October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: The Administration supports strong judicial review of agency determinations under the Regulatory Flexibility Act that will permit small businesses to challenge agencies and receive strong remedies when agencies do not comply with the protections afforded by this important statute.

In fact, the National Performance Review publicly endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small businesses, states, and other entitles are reduced.

As Chairman of the Policy Committee of the National Performance Review, under Vice President Gore's leadership I vigorously advocated this position. I have continued to champion this policy within the Administration.

If confirmed as Administrator of the U.S. Small Business Administration, I will join the Congress and the small business community in continued efforts to pass legislation for such judicial review.

Thank you for your leadership on this important issue to small business.

Sincerely,

PHILIP LADER,
Administrator-Designate.

THE WHITE HOUSE,
Washington, DC, October 7, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Your particular question about the Administration's position on judicial review of actions taken under the Regulatory Flexibility Act has come to my attention.

As you have discussed with Senator Bumpers, the Administration supports such judicial review of "Reg Flex."

The Administration supports a strong judicial review provision that will permit small businesses to challenge agencies and receive meaningful redress when they choose to ignore the protections afforded by this important statute.

In fact, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Ironically, Phil Lader, our nominee for Administrator of the Small Business Administration (whose nomination was voted favorably today by a 22–0 vote of the Senate Small Business Committee) has been a principal champion of judicial review of "Reg Flex." In his capacity as Chairman of the Policy Committee on the National Performance Review, Phil vigorously advocated this position. I know that, if confirmed, as SBA Administrator, he would join us in continued efforts to win Congressional support for such judicial review.

Sincerely,

LEON E. PANETTA,
Chief of Staff.

Mr. BUMPERS. Mr. President, as chairman of the Small Business Committee, we have had a very difficult time with continuity and administrators of the Small Business Administration.

Erskine Bowles who has been there the last 2 years, in my opinion, has been, by far, the best, ablest administrator SBA has ever had. But as is usual, he has advanced over to the White House. I believe he is Deputy Chief of Staff, where I am sure he will perform yeoman service.

But he is being succeeded by the person we just confirmed, Mr. President, Philip Lader. Phil Lader is a graduate of Duke University; later, Harvard Law School and is a Rhodes scholar. He has a very impressive résumé.

We held a hearing on him the day before yesterday. He acquitted himself in an exemplary way, and I have great hopes that Phil Lader will fill that job in the mold of Erskine Bowles. I am honestly of the belief now that he certainly will.

Those SBA programs are very complex. As you know, those programs carry billions and billions of dollars worth of loans to business people all over the country—various kinds of loans. It deals with minority contracts, small business set-asides in defense and so on. They are immensely complicated.

I believe he is eminently qualified for the job. I was very pleased to wrap this session up and handle his nomination myself.

CHRISTINE A. VARNEY

Mr. BUMPERS. I ask unanimous consent that the Committee on Commerce, Science and Transportation be discharged from further consideration of the following nomination: Christine A. Varney to be a Federal Trade Commissioner.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, it is so ordered.

RHEA LYDIA GRAHAM

Mr. BUMPERS. I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of the following nomination: Rhea Lydia Graham, to be Director of the U.S. Bureau of Mines.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, the several requests are agreed to.

NOMINATION OF MARTIN JAY DICKMAN, TO BE INSPECTOR GENERAL, RAILROAD RETIREMENT BOARD

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of the following nomination: Martin Jay Dickman, to be Inspector General, Railroad Retirement Board.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; and that the President be immediately notified of the Senate's action.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the nomination was confirmed.

NOMINATION OF LT. GEN. SAMUEL E. EBBESEN, TO BE LIEUTENANT GENERAL

Mr. BUMPERS. Mr. President, I ask unanimous consent to consider the following nomination reported today by the Committee on Armed Services, and that the Senate proceed to its immediate consideration: Lt. Gen. Samuel E. Ebbesen, to be lieutenant general.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

So the nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MESSAGES FROM THE HOUSE

At 10:57 a.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following bill; without amendment:

S. 528. An act to provide for the transfer of certain U.S. Forest Service lands located in Lincoln County, Montana, to Lincoln County in the State of Montana.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 512) to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3499) to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4361) to amend chapter 63 of title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member, and for other purposes.

MEASURES REFERRED

The following bills and joint resolution, previously received from the House of Representatives, were read the first and second times by unanimous consent, and referred as indicated:

H.R. 546. An act to limit State taxation of certain pension income, and for other purposes; to the Committee on Finance.

H.R. 934. An act to amend title 28, United Stated Code, relating to jurisdictional immunities of the Federal Republic of Germany, to grant jurisdiction to the courts of the United States in certain cases involving acts of genocide occurring against United States nationals during World War II in the predecessor states of the Federal Republic of Germany, or in any territories or areas occupied, annexed, or otherwise controlled by those states; to the Committee on the Judiciary.

H.R. 2129. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

H.R. 3344. An act for the relief of Lloyd B. Gamble; to the Committee on Armed Services.

H.R. 3426. An act to authorize the Secretary of Agriculture to convey lands to the City of Rolla, Missouri; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3612. An act to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3613. An act entitled the "Kenai Natives Association Equity Act"; to the Committee on Energy and Natural Resources.

H.R. 3917. An act for the relief of Arthur A. Carron, Jr.; to the Committee on Armed Services.

H.R. 4394. An act to require States to consider adopting mandatory, comprehensive, State-operated one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4448. An act to amend the Act establishing Lowell National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4462. An act to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

H.R. 4476. An act to provide for the development of a plan and a management review of the National Park System and to reform the process by which areas are considered for addition to the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4522. An act to amend the Communication Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4704. An act to provide for the conveyance of certain lands and improvements in Hopewell Township, Pennsylvania, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" to provide a site for economic development; to the Committee on Governmental Affairs.

H.R. 4746. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4852. An act to provide congressional approval of a governing international fishery agreement, to authorize appropriations for the Coast Guard for fiscal year 1995, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4910. An act to designate the United States courthouse under construction in White Plains, New York, as the "Thurgood Marshall United States Courthouse"; to the Committee on Environment and Public Works.

H.R. 4926. An act to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications notices by foreign banks and other persons of a foreign country; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4946. An act to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes; to the Committee on Armed Services.

H.R. 4948. An act to designate Building Number 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, Alabama, as the "Claude Harris, Jr. Building"; to the Committee on Veterans' Affairs.

H.R. 5044. An act to establish the American Heritage Areas Partnership Program, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5065. An act to amend the Consolidated Farm and Rural Development Act to make technical corrections to certain provisions relating to beginning farmers and ranchers; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5103. An act to amend title 31, United States Code, to provide for an Executive Director of the General Accounting Office Personnel Appeals Board, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5108. An act to extend the Export Administration Act of 1979; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5139. An act to amend title 39, United States Code, to provide for procedures under which persons involuntarily separated by the United States Postal Service as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges may seek reemployment; to the Committee on Governmental Affairs.

H.R. 5140. An act to provide for improved procedures for the enforcement of child support obligations of members of the Armed Force; to the Committee on Armed Services.

H.R. 5143. An act to amend the Fair Credit Reporting Act to provide for disclosures by consumer reporting agencies to the Federal Bureau of Investigation for counterintelligence purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5148. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5156. An act to make technical corrections to the Food Stamp Act of 1977; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5164. An act to provide for the enrollment of individuals enrolled in a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision in the Federal Employees Health Benefits Program; to the Committee on Governmental Affairs.

H.R. 5178. An act to amend the Fair Credit Reporting Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5179. An act to amend title 5, United States Code, to strengthen child support enforcement orders through the garnishment of amounts payable to Federal employees, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5231. An act to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior; to the Committee on Energy and Natural Resources.

H.R. 5243. An act to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5245. An act to provide for the extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 5248. An act to require States to consider adopting mandatory, comprehensive, Statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 184. Joint resolution designating the weekend of October 15–16, 1994, as "Small Towns and Townships Weekend"; to the Committee on the Judiciary.

H.J. Res. 411. Joint resolution designating October 29, 1994, as "National Firefighters Day"; to the Committee on the Judiciary.

H.J. Res. 413. Designating November 1, 1994, as "National Family Literacy Day"; to the Committee on the Judiciary.

The following concurrent resolutions, previously received from the House of Representatives, were read and referred as indicated:

H. Con. Res. 14. Concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration; to the Committee on Labor and Human Resources.

H. Con. Res. 35. Concurrent resolution recognizing Belleville, New Jersey, as the birthplace of the industrial revolution in the United States; to the Committee on the Judiciary.

H. Con. Res. 216. Concurrent resolution expressing the sense of the Congress regarding human rights in Vietnam; to the Committee on Foreign Relations.

H. Con. Res. 257. Concurrent resolution commending the work of the United States Labor Attaché Corps, and for other purposes; to the Committee on Foreign Relations.

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress regarding United States policy towards Vietnam; to the Committee on Foreign Relations.

H. Con. Res. 279. Concurrent resolution condemning the July 13, 1994, sinking of the "13th of March", a tugboat carrying 72 unarmed Cuban citizens, by vessels of the Cuban Government; to the Committee on Foreign Relations.

H. Con. Res. 286. Concurrent resolution recognizing the contribution of President Alfredo Christiani of El Salvador to achieve peace and national reconciliation in El Salvador; to the Committee on Foreign Relations.

H. Con. Res. 295. Concurrent resolution to express the sense of the Congress of the United States that the United States should actively seek compliance by all countries with the conservation and management measures for Atlantic bluefin tuna adopted by the International Commission for the Conservation of Atlantic Tunas; to the Committee on Commerce, Science, and Transportation.

H. Con. Res. 302. Concurrent resolution urging the President to promote political stability in Tajikistan through efforts to encourage political resolution of the conflict and respect for human rights and through the provision of humanitarian assistance and, subject to certain conditions, economic assistance; to the Committee on Foreign Relations.

H. Con. Res. 313. Concurrent resolution providing for a technical correction in the enrollment of S. 21; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3416. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report relative to the Cooperative Threat Reduction Act of 1993; to the Committee on Armed Services.

EC–3417. A communication from the Secretary of Housing and Urban Development's Designee to the Federal Housing Finance Board, transmitting, pursuant to law, the report on the Low-Income Housing and Community Development activities; to the Committee on Banking, Housing, and Urban Affairs.

EC–3418. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within 5 days of enactment; to the Committee on the Budget.

EC–3419. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report entitled "Information Superhighway: Issues Affecting Development"; to the Committee on Commerce, Science, and Transportation.

EC–3420. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on International Technology Transfer Programs; to the Committee on Energy and Natural Resources.

EC–3421. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of recommendations on performance standards for the Job Opportunities and Basic Skills Training programs; to the Committee on Finance.

EC–3422. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report entitled "Russian Military Operations in the Independent States of the Former Soviet Union"; to the Committee on Foreign Relations.

EC–3423. A communication from the President of the United States, transmitting, pursuant to law, the report on sanctions on Vietnam; to the Committee on Foreign Relations.

EC–3424. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation relative to the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–648. A resolution adopted by the Legislature of Rockland County, New York relative to the Mount Moor Cemetery, West Nyack, Rockland County, New York; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes (Rept. No. 103–410).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2269. A bill to protect Native American cultures and to guarantee the free exercise of religion by Native Americans (Rept. No. 103–411).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be lieutenant general

Lt. Gen. Samuel E. Ebbesen, 096–30–1327, U.S. Army.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMPSON:

S. 2557. A bill to amend the Internal Revenue Code of 1986 to reinstate the 80-percent limitation on the deductible portion of meal expenses; to the Committee on Finance.

By Mr. DOLE (for Mr. STEVENS):

S. 2558. A bill to provide for the World War II Home Front Council to reissue the World War II "E" award to the original recipients to commemorate the role of World War II Home Front veterans, including women, minorities, labor, and industry, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. LUGAR, and Mr. PRESSLER):

S. 2559. A bill relating to implementation of Oil Pollution Act with respect to animal fats and vegetable oils; considered and passed.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. DASCHLE, and Mr. CRAIG):

S. 2560. A bill to allow the collection and payment of funds following the completion of cooperative work involving the protection, management, and improvement of the National Forest System, and for other purposes; considered and passed.

By Mr. BOND:

S. 2561. A bill to provide for the extension of the Farmers Home Administration program under section 515 of the Housing Act of 1949 and other programs relating to housing and community development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON:

S. 2562. A bill to clarify certain matters relating to Presidential succession; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself and Mr. SIMPSON):

S. Res. 284. A resolution increasing the efficiency of the deportation process and the removal of deportable aliens; considered and agreed to.

By Mr. LOTT (for himself, Mr. BREAUX, Mr. COCHRAN, Mr. HEFLIN, Mr. JOHNSTON, Mr. NUNN, Mr. CRAIG, Mr. PRESSLER, and Mr. SHELBY):

S. Res. 285. A resolution to express the sense of the Senate concerning phasing in implementation of Forest Management Plans by the Department of Agriculture; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMPSON:

S. 2557. A bill to amend the Internal Revenue Code of 1986 to reinstate the 80-percent limitation on the deductible portion of meal expenses; to the Committee on Finance.

THE BUSINESS MEAL TAX DEDUCTION RESTORATION ACT

Mr. SIMPSON. Mr. President, I rise to introduce legislation to restore the 80-percent tax deductibility on business meal expenses. I ask that Senators REID and COCHRAN be included as cosponsors.

Mr. President, my colleagues are aware that the President's 1993 tax and budget plan reduced the tax deduction for business meals and entertainment from 80 to 50 percent. I believe that this was a mistake, for reasons that I shall outline in a moment. But unfortunately this session of Congress did not provide a suitable "tax vehicle" to reverse this decision. We have had a number of measures considered here with tax implications—NAFTA, health care, welfare reform, merchant marine, and shortly GATT—but these have mainly involved searches for new offsetting revenue, not opportunities to eliminate the more egregious provisions of the 1993 act.

Thus, as we have failed to repair this situation, I am introducing legislation at the end of this session to serve notice that I trust that this issue can be revisited the first time the next Congress undertakes significant tax legislation.

Mr. President, The adverse effects of the new limit on deductibility are well documented. The food industry, as well as travel and tourism—meaning everyone who works in these sectors too—has taken a direct "hit." My colleagues, Senator INOUYE, introduced legislation to restore the full deductibility on both business meals and entertainment expenses, for which I commend him. But there was significant reluctance here to restore that full

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amount because of an inaccurate perception that somehow the tax deduction represented a special benefit for "fat cats" wealthy lobbyists, and corporate executives.

In my fine home State of Wyoming, certainly, this is simply not the case. I have many hard-working men and women of modest means in my home State—in the restaurant business, in the trucking industry, elsewhere—who are greatly harmed by this tax. They are certainly no "fat cats" by any stretch of the imagination. Many truckers, for example, simply have no choice but to eat their meals out "on the road." It is an honest expense incurred in the course of their work, and it is much more expensive for them than it is for other workers who at least can save money by preparing meals more inexpensively at home. These workers are not out there trying to "live it up" at the taxpayers' expense. Many of them would prefer a good home-cooked meal if only they were at home to enjoy it. But that is the nature of their work; it hits them with an unavoidable expense from which many of them require some kind of relief.

My legislation, therefore, would restore the 80-percent deductibility for only the meals portion of these business expenses. By doing so, we would remove some of the recently added tax penalties on restaurants and tourism, and also prevent lower income individuals from being the unintended targets of the recent tax action which was initially aimed at those of higher income.

I do think it would make darn good sense—as Senator INOUYE has suggested—to restore the full deductibility for both business meals and entertainment. But I believe we have to be sensitive to public perceptions of this issue. "Business entertainment" is simply a different series of activities, and it conjures up images of special "recreations" and benefits that normal working people do not get to enjoy. Business meals, however, are another matter entirely, in my view. I do not believe this measure would carry the same connotations of privilege, certainly not after a most basic reflection on the fact that many individuals simply have no choice but to "eat out" in the course of doing their life's work.

I, therefore, introduce this legislation today and will work hard to see similar legislation enacted in the next session of Congress.

By Mr. DOLE (for Mr. STEVENS):

S. 2558. A bill to provide for the World War II Home Front Council to reissue the World War II "E" award to the original recipients to commemorate the role of World War II home front veterans, including women, minorities, labor, and industry, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE WORLD WAR II HOME FRONT VETERANS ACT OF 1994

• Mr. STEVENS. Mr. President. 1995 marks the 50th anniversary of the Allied victory in World War II. That victory was made possible not only by the courageous efforts of American and Allied airmen, sailors, and soldiers, but also by the tireless and often forgotten efforts of millions of American men and women working on the home front in our factories and farms. Without the round-the-clock efforts of these dedicated citizens, the tremendous success of our Armed Forces would not have been possible. It was American industrial and agricultural might that produced the ships, planes, guns, boots, food, and thousands of other things that make victory in war possible.

As a veteran of World War II, I flew some of the planes that were built by Americans working on the home front. My life, and the lives of millions of other fighting men, depended on their skill and commitment to excellence. Fifty years later, the Nation is celebrating the many momentous events of World War II—primarily through ceremonies commemorating our most famous battles and campaigns. This bill would establish a commission to ensure that those working on the home front, on the farms, and in the factories, are remembered too.

During the war the outstanding efforts of those on the home front were recognized by the presentation to businesses and individuals of the Army-Navy "E" award. A medal was presented, and businesses receiving the award flew a flag in recognition of their achievement. This bill would provide for the reissuance of the "E" award to those who originally received them. Scattered throughout the 50 States, many of these same businesses and individuals are still with us today, and deserve to be recognized for their part in winning the war. In addition, the commission is authorized and directed in this bill to design and implement other appropriate ceremonies to remember the home front.

Mr. President, it is too late this year for Congress to take action on this bill. I am introducing this bill today so that all of us who are interested in giving recognition to these deserving citizens have a vehicle to debate and improve over the winter. I hope that all of my colleagues will join me in reintroducing this bill early in the new Congress, and passing a bill in record time so that appropriate ceremonies may take place in the late spring and over next summer.•

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. DASCHLE, and Mr. CRAIG):

S. 2560; considered and passed.

COOPERATIVE WORK TRUST FUND AMENDMENTS

Mr. LEAHY. Mr. President, I rise to introduce a bill that will help restore and maintain the biological vitality and integrity of our national forests.

For 80 years nonprofit organizations and individuals have been donating time, money, and technical expertise to improve biological resources of our national forests. In 1993, nonprofit organizations donated over $15 million in private funds through the Challenge Cost Share Program for improvements to fish, wildlife, and rare plants on our national forests—this is 14 percent of the annual National Forest System fish, wildlife, and rare plant management budget.

Organizations are able to make these contributions through the authority provided in the act of June 30, 1914. Last year nearly 3,000 partners completed 2,275 different habitat improvement projects on national forests and grasslands. Through these efforts, many species have returned to habitats that were once abandoned, rare plant communities have been protected, countless other projects have been completed, and tax dollars have been saved.

Vermont conservation groups and agencies have taken advantage of the challenge cost-share program as much as anyone. Four chapters of Trout Unlimited, the Federation of Fly Fishers, Friends of the Mad River, the Green Mountain Club, Green Mountain Fly Tyers, Hand Chevrolet, New England Wildflower Society, the Ruffed Grouse Society, Snowridge, Inc., Stratton Corp., the Nature Conservancy, the town of Weston, several colleges, several State agencies, and five individuals have contributed to forest improvements. These groups and individuals donated $60,000 and many hours toward 29 projects on the Green Mountain National Forest.

This kind of effort makes me especially proud of Vermont. Private donations have helped us make the Green Mountain National Forest a better place for anglers, hunters, birdwatchers, hikers, and others. Most importantly, these groups have made the forest a better place for our children to grow up in and enjoy. Both Vermont groups and national organizations help to pass on both the heritage of our natural resources and the tradition of environmental stewardship.

As part of saying thank you to all these groups, Congress should make it easier for groups to make this kind of donation. My bill allows the Forest Service to welcome this assistance on more favorable terms—terms that benefit the organizations that make these valuable contributions.

Ironically, when a for-profit group like timber and mining interests come to take resources off of the forest, the company makes its payments in regular installments after the work has been completed. When a nonprofit organization comes to restore forest resources, they must pay in full, up

front. In doing this, they forego interest accrued from the time when the agreement is finalized to when the work is finished. In some cases the money sits for over 2 years. This is the wrong way to go about the business of welcoming voluntary contributions and my bill changes this.

The bill which I am introducing today changes the terms by which nonprofit organizations donate funds to cooperative projects. Through this bill, the Forest Service is authorized to fund the projects with appropriated moneys provided that there are written terms with the cooperator that protect the Forest Service's investment. The cooperators will reimburse the Forest Service for costs as work is completed.

The bill also adds several technical corrections including the clear authority to do cooperative work and management throughout the National Forest System. Finally, the bill requires the Secretary of Agriculture to establish written rules regarding the acceptance of contributions.

By Mr. BOND:

S. 2561. A bill to provide for the extension of the Farmers Home Administration Program under section 515 of the Housing Act of 1949 and other programs relating to housing and community development; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING PROGRAMS EXTENSION ACT OF 1994

Mr. BOND. Mr. President, I rise in support of the Senate version of the Housing Programs Extension Act of 1994. This bill is a very simple reauthorization bill that, among other things, reauthorizes the section 515 Multifamily Housing Production Program and provides HUD with authority to extend expiring section 8 project-based contracts for up 24 months under the same conditions and requirements. Both are important provisions and I will be disappointed if we are not able to take action on these simple and straightforward extenders. I am committed to enacting these extenders either today, in November, or at the beginning of the new session in 1995.

I state my concern with H.R. 5245, the House-version of the Housing Programs Extension Act of 1994. This bill is problematic because it goes beyond a simple housing reauthorization extender bill and provides for a significant number of special purpose provisions that are, for the most part, from the House housing reauthorization bill. Although many of these provisions have merit, I emphasize that a clean bill is what is needed at this time of the session and a clean bill is what I support.

Finally, I emphasize my concern over FmHA's belief that a new authorization is needed to run the section 515 program, despite the appropriation of $220 million for fiscal year 1995 for the section 515 program. I believe that the appropriation represents authority for FmHA to continue to administer this program to the extent funding remains available.

By Mr. SIMON:

S. 2562. A bill to clarify certain matters relating to Presidential succession; to the Committee on Rules and Administration.

THE PRESIDENTIAL SUCCESSION CLARIFICATION ACT

• Mr. SIMON. Mr. President, I introduce the Presidential Succession Clarification Act.

Much has been said and written about the laws of succession following the death of a sitting President. In general, these laws provide clear and precise rules for administering the transfer of Presidential power.

The laws of succession, however, do not adequately address the possibility that a Presidential candidate might die during the voting period itself—by that I mean during the period beginning roughly with the popular election in mid-November and ending with the formal naming of the President-elect in early January.

A candidate's death during this 2-month period could seriously disrupt the voting process and raise doubts about the election results. The seriousness of these problems would depend on the precise point in time at which the death occurred. I will take only a moment to mention a few possible scenarios here, but I intend to provide a more detailed analysis of these issues next year in the 104th Congress.

Broadly speaking, the act addresses three distinct situations:

First, let us suppose that a Presidential candidate dies after the electoral delegates have cast their votes but before those votes are counted. If the deceased would have won the election, who is now president-elect? Scholars disagree on the answer.

Second, suppose that a major party candidate dies immediately before the popular election, or immediately prior to the time that the electoral college delegates vote. Would it not make sense to give the voters a couple of weeks to adjust to this unsettled situation?

Third, suppose that no candidate wins a majority of the electoral votes, and that the election is thrown into the House of Representatives as a result. If one of the candidates should die at this point, is the House permitted to consider an alternative candidate?

The act provides answers for each of these, admittedly complex, questions. None of these scenarios, of course, is likely to occur during any election cycle. But any one of them could lead to confusion and uncertainty at a time when clarity and stability would be vital. Prudence dictates that we should act now, while we have the time for calm reflection, rather than wait for a possible crisis to catch us unprepared.•

ADDITIONAL COSPONSORS

S. 1516

At the request of Mr. COVERDELL, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1516, a bill to limit the use of funds for deployment of the Armed Forces of the United States outside the United States under United Nations command.

S. 2378

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 2378, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance.

S. 2465

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2465, a bill to require the Secretary of the Treasury to mint coins in commemoration of black Revolutionary War patriots.

SENATE RESOLUTION 284—RELATING TO DEPORTABLE ALIENS

Mr. DECONCINI (for himself and Mr. SIMPSON) submited the following resolution; which was considered and agreed to:

S. RES. 284

Resolved, That (a) it is the sense of the Senate that—

(1) the Attorney General should consider implementing, through awarding start-up administrative grants to appropriate not-for-profit organizations, a pilot program at processing centers of the Immigration and Naturalization Service for the purpose of increasing efficiency and cost savings in the processing and removal of aliens held in custody by assuring orientation and representation for such aliens;

(2) these pilot projects should be developed in consultation with the Commissioner of the Immigration and Naturalization Service, the Executive Office of Immigration Review (EOIR), and appropriate not-for-profit organizations having relevant experience;

(3) one such project currently operating in Arizona at the Florence Service Processing Center is a good model for implementing such a pilot program because of its working relationship with the Immigration and Naturalization Service, the Executive Office of Immigration Review, and a not-for-profit organization; and

(4) an evaluation component should be included in any such pilot program to test the efficiency, the cost effectiveness, the services provided, and the replicability in future years to additional processing centers of the Immigration and Naturalization Service.

(b) It is further the sense of the Senate that nothing in this resolution should be construed as creating a right to be represented at the expense of the Government.

SENATE RESOLUTION 285—RELATING TO FOREST MANAGEMENT PLANS

Mr. LOTT (for himself, Mr. BREAUX, Mr. COCHRAN, Mr. HEFLIN, Mr. JOHNSTON, Mr. NUNN, Mr. CRAIG, Mr. PRESSLER, and Mr. SHELBY) submitted the

following resolution; which was considered and agreed to:

S. RES. 285

It is the Sense of the Senate that—

(1) the Secretary of Agriculture shall, in connection with each proposed forest management change proposed, recognize the multiple uses of the National Forests;

(2) the Secretary of Agriculture shall phase in to the greatest extent practicable each forest management change that would amend or revise a forest plan to provide for a diversity of plant and animal communities in a particular National Forest or district of the Forest Service; and

(3) to the extent authorized by law, prior to implementation of such changes, the Secretary of Agriculture shall consider such factors as, economic consequences faced by affected communities, the impact on state and local revenues, and the agency's financial resources which are available for implementation.

AMENDMENTS SUBMITTED

PATENT PRIOR USER RIGHTS ACT OF 1994

DECONCINI AMENDMENT NO. 2655

Mr. BUMPERS (for Mr. DECONCINI) proposed an amendment to the bill (S. 2272) to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Prior User Rights Act of 1994".

SEC. 2. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR USE.

(a) IN GENERAL.—Chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following new section:

"§ 273. Rights based on prior use; defense to infringement

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercially used' means used in the production of commercial products, whether or not the processes, equipment, tooling, or other materials so used are normally accessible, available, or otherwise known to the public;

"(2) the term 'effective and serious preparation' means that a person has—

"(A) actually reduced to practice the subject matter for which rights based on prior use are claimed; and

"(B) made a substantial portion of the total investment necessary, for the subject matter to be commercially used; and

"(3) the 'effective filing date' of an application for patent is the earlier of the actual filing date of the application or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under sections 119, 120, or 365 of this title.

"(b) IN GENERAL.—

"(1) DEFENSE.—A person shall not be liable as an infringer of a patent under section 271 of this title with respect to any subject matter claimed in the patent that such person had commercially used in the United States, or made effective and serious preparation therefor in the United States, before the effective filing date of the application for the patent.

"(2) GOOD FAITH PURCHASERS.—A person who purchases in good faith a product that results directly from a use or preparation therefor described in paragraph (1) shall not be liable as an infringer for continuing the use of the product purchased, or for selling to another person the product purchased.

"(c) LIMITATION OF DEFENSE.—Rights based on prior use under this section are not a general license under all claims of the patent, but, subject to subsection (d), extend only to the claimed subject matter that the person asserting the defense based on prior use had commercially used or made effective and serious preparation therefor before the effective filing date of the application for the patent.

"(d) CERTAIN VARIATIONS AND IMPROVEMENTS NOT AN INFRINGEMENT.—The rights under this section based on prior use shall include the right to vary quantities or volumes, or to make improvements, that do not infringe claims other than those claims that, but for subsection (b), would have been infringed as of the effective date of the application for patent.

"(e) QUALIFICATIONS.—

"(1) RIGHTS ARE PERSONAL.—The rights under this section based on prior use are personal and may not be licensed or assigned or transferred to any other person except in connection with the good faith assignment or transfer of the entire business or enterprise or the entire line of business or enterprise to which the rights relate.

"(2) EXCLUSIONS.—(A) A person may not claim rights under this section based on prior use if the activity under which such person claims the rights was based on information obtained or derived from the patentee or those in privity with the patentee.

"(B) If the activity under which a person claims rights under this section based on prior use is abandoned on or after the effective filing date of the application for the patent, such person may claim such rights only for that period of activity which occurred before abandonment. claim such rights only for that period of activity which occurred before abandonment.

"(f) BURDEN OF PROOF.—In any action in which a person claims a defense to infringement under this section, the burden of proof for establishing the defense shall be on the person claiming rights based on prior use.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 28 of title 35, United States Code, is amended by adding at the end thereof the following:

"273. Rights based on prior use; defense to infringement.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsections (b) and (c), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXISTING PATENT CLAIMS.—This Act and the amendments made by this Act shall apply to any action for infringement that is brought, on or after the date of the enactment of this Act, by a patentee in a case in which the effective filing date (as defined in section 273(a)(2) of title 35, United States Code) of the application for patent is before such date of enactment, only if—

(1) no other action for the same act or acts of infringement was brought before such date of enactment, and

(2) there has been no notice of infringement under section 287 of title 35, United States Code, as of October 1, 1994, with respect to the same act or acts of infringement.

(c) EQUITABLE COMPENSATION.—In any action for infringement to which subsection (b) applies and in which the defense of prior user rights under section 273 of title 35, United States Code (as added by this Act), is asserted and determined to be valid by the court, the court may grant equitable compensation to the patentee, notwithstanding subsection (b) of such section 273. Such equitable compensation may be based on all actions of the person asserting the defense that were carried out after notice of infringement under section 287 of title 35, United States Code, which would constitute infringement of the patent but for section 273 of such title (as added by this Act).

QUINEBAUG AND SHETUCKET RIVERS VALLEY HERITAGE CORRIDOR ACT

The text of the substitute amendment, as reported by the Committee on Energy and Natural Resources and agreed to by the Senate on October 6, 1994, to the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes, is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and other permanent open space;

(2) the State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other Northeastern States in the amount of land set-aside for public recreation;

(3) the beautiful rural landscapes, scenic vistas and excellent water quality of the Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States;

(4) the Quinebaug and Shetucket Rivers Valley is within a 2-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for significant population;

(5) the existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution;

(6) the Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States;

(7) the Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the Northeastern United States;

(8) the Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period, leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence; and

(9) many local, regional and State agencies businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 3. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this Act to provide a management framework to assist the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley.

SEC. 4. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

(b) ADMINISTRATION.—The Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission. The Commission shall assist appropriate Federal, State, regional planning organizations, and local authorities in development and implementation of an integrated resource management plan for the lands and water as specified in section 3.

(b) MEMBERSHIP.—The Commission shall consist of 19 members to be appointed by the Secretary no later than 6 months after the date of enactment of this Act, as follows:

(1) The Director of the National Park Service, ex officio (or the Director's designee).

(2) 18 members appointed after considering recommendations submitted by the Governor of Connecticut, who shall represent—

(A) one member from the Connecticut Department of Environmental Protection;

(B) one member from the Connecticut Historical Commission;

(C) one member from the Connecticut Department of Economic Development;

(D) 6 members appointed from local government or regional planning organizations, of whom, 3 shall be representatives of the 3 regional planning organizations within the Corridor region and 3 shall be local elected officials from the region; and

(E) 9 members from the general public, who are citizens of the State of Connecticut representing conservation, business, tourism and recreational interests.

(c) TERMS.—(1) Members of the Commission shall be appointed for terms of 3 years and may be reappointed.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor has taken office.

(3) A vacancy in the Commission shall be filled in the manner in which the original appointments were made.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The members of the Commission shall elect one member to serve as a Chairperson.

(f) QUORUM.—(1) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which its members are appointed, and shall meet at least quarterly at the call of the chairperson or 10 of its members. Meetings of the Commission shall be subject to section 552(b) of title 5, United States Code (relating to open meetings).

(h) PROXY.—Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

SEC. 6. STAFF OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission shall have the power to appoint and fix compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF FEDERAL AND STATE AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(2) The Commission may accept the service of personnel detailed from the State, any political subdivision and regional planning organizations, and may reimburse the State, political subdivision, and regional planning organizations for those services.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS.—(1) The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source: Provided, That such gifts are used for public purposes.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission shall not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property or interest in real property in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money that was donated, appropriated, or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interest in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land management agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Connecticut, with any political subdivision, or with any person or organization. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of action proposed by the State, such political subdivision, or such person which may affect implementation of the plan referred to in section 8.

SEC. 8. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—Within 2 years after the Commission conducts its first meeting, it shall submit to the Secretary and the Governor for review and approval a Cultural Heritage and Corridor Management Plan. The plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a comprehensive historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) recommend non-binding advisory standards and criteria pertaining to the construction, preservation, restoration, alteration and use of properties within the Corridor, including an inventory of such properties which potentially could be preserved, restored, managed, developed, maintained, or acquired based upon their historic, cultural or recreational significance;

(2) develop an historic interpretation plan to interpret the history of the Corridor;

(3) develop an inventory of existing and potential recreational sites which are developed or which could be developed within the Corridor;

(4) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(5) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this Act; and

(6) contain a program for implementation of the plan by the State and its political subdivisions.

(b) IMPLEMENTATION OF PLAN.—After review and approval of the plan by the Secretary and the Governor as provided in section 10(a), the Commission shall implement the plan by taking appropriate steps to assist in the preservation and interpretation of historic resources, and to assist in the development of recreational resources within the Corridor. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in establishing and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and nonprofit organizations in the restoration of historic buildings within the Corridor identified pursuant to the inventory required in section 8(a)(1);

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the plan; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 9. TERMINATION OF THE COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring 5 years after the date of enactment of this Act.

(b) EXTENSION.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination referred to in subsection (a) if, not later than 180 days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purposes of this Act;

(2) the Commission submits such proposed extension to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate; and

(3) the Secretary, in consultation with the Governor, approves such extension.

SEC. 10. DUTIES OF THE SECRETARY.

(a) APPROVAL OF THE PLAN.—The Secretary, in consultation with the Governor, shall approve or disapprove a plan submitted under this Act by the Commission not later than 60 days after receiving such plan. Such plan, as submitted, shall be approved if—

(1) the plan would adequately assist in protecting significant historical and cultural resources of the Corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor;

(2) the Commission has held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the plan; and

(3) the Secretary receives adequate assurances from appropriate State officials that the State will implement the plan in a timely and effective manner.

(b) DISAPPROVAL OF PLAN.—If the Secretary disapproves a plan submitted by the Commission, he shall advise the Commission in writing of the reasons therefor and shall make recommendations for revisions in the plan. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted.

(c) ASSISTANCE.—The Secretary shall, upon request of the Commission, assist the Commission in the preparation and implementation of the plan.

SEC. 11. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities; and

(2) cooperate with the Secretary and the Commission with respect to such activities and, to the maximum extent practicable, coordinate such activities to minimize any adverse effect on the Corridor.

SEC. 12. DEFINITIONS.

For the purposes of this Act:

(1) The term "Commission" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission established under section 5.

(2) The term "State" means the State of Connecticut.

(3) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor under section 3.

(4) The term "plan" means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 8.

(5) The term "Governor" means the Governor of the State of Connecticut.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "regional planning organization" means each of the 3 regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency or its successor, and the Southeastern Connecticut Regional Planning Agency or its successor).

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act: Provided, That not more than $200,000 shall be appropriated for fiscal year 1995, and not more than $250,000 annually thereafter shall be appropriated for the Commission to carry out its duties under this Act: Provided further, That the Federal funding to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out such duties.

ADDITIONAL STATEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. I ask that I may proceed as if in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered. The minority leader is recognized.

TRIBUTE TO JACK MILLER

Mr. DOLE. Mr. President, over the years, the State of Iowa has become almost a second home to me, and my respect for the residents of the Hawkeye State is well known.

Hardworking. Fair. Honest. Thoughtful. Patriotic. These are words that describe the vast majority of Iowans, and they are words that also described Senator Jack Miller of Iowa, who passed away on August 29.

Along with many in this Chamber, and with countless more in Iowa, Elizabeth and I join in mourning the death of this dedicated public servant.

Jack Miller's dedication to America began during World War II, when he served in the Army Air Forces in the China-Burma-India theater. Jack would eventually attain the rank of lieutenant colonel, and would retire from the Air Force Reserve as a brigadier general. As a member of the faculty of the U.S. Army Command and General Staff School in Fort Leavenworth, KS, Jack also taught logistics to thousands of young soldiers.

After the war, Jack eventually returned to Iowa, where he began a tax law practice. After 2 year in the Iowa House of Representatives and 4 in the Iowa State Senate, Jack came to the U.S. Senate, where he would serve for 12 years.

Throughout his years in elective office, Jack was recognized by members of both parties as one of America's preeminent experts in the field of tax law. He was also recognized for the common sense he brought to issues ranging from civil rights to national defense to agriculture.

After leaving the Senate in 1973, Jack was nominated by President Nixon to serve as a judge on the U.S. Court of Customs and Patent Appeals. He remained on the Court until his retirement in 1983.

Soldier. Senator. Judge. Jack Miller was buried last week at Arlington National Cemetery, alongside countless others who served their country as he did—with courage, with conviction, and with an abiding love of family and of country.

I know all Members of this Chamber join with me in expressing our condolences to "Jerry" Miller, Jack's wife of 52 years, and to their family, which includes four children, eleven grandchildren, and one great-grandchild.

COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1994

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5248, the Comprehensive One-Call Notification Act of 1994, received from the House and at the desk; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; that any statements or colloquies appear in the RECORD at the appropriate place as if read.

The PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to enter a colloquy in the REOCRD between Senators EXON and DANFORTH.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

Mr. DANFORTH. Mr. President, I have a question for the senior Senator from Nebraska concerning the High Risk Drivers legislation that has been included in both the Federal Railroad Safety Authorization Act of 1994, S. 2132, and the Comprehensive One-Call Notification Act of 1994, H.R. 5248.

Mr. EXON. As the lead co-sponsor and advocate of the High Risk Drivers Act, I would be happy to answer a question.

Mr. DANFORTH. In 1991, Congress created a drunk driving prevention program which is found at 23 U.S.C. Section 410. This program has been a great success. In fact, states have qualified for approximately $40 million in grants for taking tough steps to combat drunk driving such as administrative license revocation systems. Unfortunately, this program is only authorized at $25 million per year.

Mr. EXON. As the Senator from Missouri notes, I understand that there has been an annual shortfall of $15 million in this program. Our legislation seeks to correct this problem with Sec. 251 of both the one call legislation and the rail safety legislation by providing that, "In addition to any amount otherwise appropriated or available for such use, there are authorized to be appropriated $15,000,000 for fiscal years 1995, 1996, and 1997 for the purpose of carrying out section 410 of title 23, United States Code."

Mr. DANFORTH. As I understand it, then, this legislation is intended to provide a total additional authorization of $45,000,000 or $15,000,000 in each fiscal years 1995, 1996, and 1997?

Mr. EXON. The senior Senator from Missouri is correct.

Mr. DANFORTH. Thank you for this clarification.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to enter a colloquy in the RECORD between Senators HEFLIN and MITCHELL.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WASTE FLOW CONTROL LEGISLATION

Mr. HEFLIN. Is it correct that communities that have contracted with a public authority such as the Southeast Alabama Solid Waste Disposal Authority that have executed contracts prior to May 15, 1994, that qualify for grandfather protection under subsection F of the flow control legislation are not required under this legislation to be subjected to the competitive designation requirements of subsection C?

Mr. MITCHELL. Yes, that is my understanding.

Mr. HEFLIN. I believe that since communities that have contracted with the Southeast Alabama Solid Waste Disposal Authority have previously demonstrated their needs to exercise flow control authority over municipal solid waste, and have also executed a contract prior to May 15, 1994, that qualify for grandfather protection under subsection F of the flow control legislation such communities should not have to be subject to additional needs tests should they shift designations from a proposed facility to a new proposed facility.

Mr. MITCHELL. I believe the Senator has made a valid point.

DISADVANTAGED MINORITY HEALTH IMPROVEMENT ACT

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on S. 1569, the Disadvantaged Minority Health Improvement Act; that the conference report be agreed to and the motion to reconsider laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDENT pro tempore. Is there objection to the several requests? The Senator from Kansas.

Mr. DOLE. Mr. President, on behalf of Republican Members on this side of the aisle, I object.

The PRESIDENT pro tempore. Objection is heard. The request is not granted.

INTERSTATE TRASH

Mr. BUMPERS. Mr. President, I ask the Chair to lay before the Senate a message from the House on S. 2345, the interstate trash bill.

The PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, on behalf of a Republican Member on this side, I object.

The PRESIDENT pro tempore. Objection is heard.

THE PRESIDIO BILL

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5231, the Presidio bill just received from the House; that the bill be read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Is there objection?

Mr. DOLE. Mr. President, I personally have no objection to this bill, but there are objections on this side of the aisle. Therefore, I object.

The PRESIDENT pro tempore. Objection is heard. The request is not granted.

THE NEW BEDFORD WHALING NATIONAL HISTORIC PARK

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from and the Senate proceed to the immediate consideration of H.R. 3898, a bill to establish the New Bedford Whaling National Historic Park in New Bedford, MA; that the bill be read a third time, passed, and that the motion to reconsider be laid upon the table.

Mr. DOLE. Mr. President, I object.

The PRESIDENT pro tempore. Objection is heard. The request is not granted.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader.

TRIBUTE TO DR. RICHARD HALVERSON

Mr. DOLE. Mr. President, when Dr. Richard Halverson became Chaplain of the U.S. Senate in 1981, an article by a writer in Chicago suggested that the Chaplain's job was an easy one, as his only responsibility was to pray at the beginning of each session.

Now, as Dr. Halverson prepares to leave the Chaplain's Office, I want to thank him for proving the total and complete inaccuracy of that article.

Dr. Halverson may be known to C–SPAN viewers as the man who begins our sessions. But to Senators, their families, and to Senate staff members, Capitol Police and security officers, elevator and subway operators, restaurant personnel, and the others who work for the Senate, his job responsibilities are endless.

He is a counselor and a friend, who is there for all of us in times of joy or in times of sorrow.

He is a scholar, who has helped many to a better understanding of the Bible, and of the moral and ethical implications of political issues.

He is an ambassador of the Senate, responding to thousands of letters, and speaking to countless organizations and audiences about the challenges we face.

And he is also a humanitarian, who maintains a prison ministry which he began many years ago.

Our colleague, Senator MARK HATFIELD, is a student of the history of the Office of the Chaplain, and he has correctly concluded that Dr. Halverson did

more than just service in that office—he transformed it.

Dr. Halverson is now 78 years young. And although Senator THURMOND regards him as someone who is far too young to retire, he has more than earned the right to spend more time with his wife and family.

I know that all Members of the Senate family join me in thanking this good and faithful man for a job well done, and in wishing him many more years of happiness.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I had previously made a statement about Reverend Halverson. But I wanted to join with my friend and colleague, Senator DOLE, in again acknowledging the service to the Senate and to its Members by Dr. Halverson. He has served the Senate long and well and will leave behind him a record of spiritual service that will long be remembered. I know that I can speak for every Member of the Senate from our side, as Senator DOLE has spoken for his colleagues, in wishing our beloved Reverend the very best in his retirement.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader.

TRIBUTE TO BOB MICHEL

Mr. DOLE. Mr. President, serving as Senate Republican leader is a true honor. And one of the most rewarding aspects of my job has been the opportunity to work on a daily basis with Congressman BOB MICHEL.

As the Members of the Senate know, Congressman MICHEL, who has served as House Republican leader since 1981, is retiring from Congress after 38 years of service. And I know I speak for all Senators in saying that he will be greatly missed

"Gentleman" is a term that is often used in the House and Senate. And in BOB MICHEL's case, that word fits him perfectly. For in the often rough and tumble world of politics, BOB MICHEL was first and foremost a gentleman.

Yes, he could be tough when it was needed—you can't serve as a member of the minority party for 38 years and not be tough. But when you dealt with BOB MICHEL you always knew you were dealing with someone of total integrity and honesty.

And when the day was done, no matter if you agreed or disagreed with him on the issues, you knew that BOB MICHEL was your friend.

Though his service in Washington has been long—spanning nine Presidents—BOB MICHEL has never been of Washington. He has always been BOB MICHEL of Peoria.

In January of this year, BOB and I cohosted a luncheon for President Nixon on the occasion of the 25th anniversary of his Presidency. It was to be the President's last visit to the Capitol.

And at that luncheon, BOB quoted from a eulogy that President Nixon gave in 1969 for the great Senator Everett Dirksen, who also once served Peoria in Congress.

And the quote centered around a word that is not very much in favor these days—the word "politician." And that is unfortunate. Because there are many outstanding qualities to the word "politician." And each of those qualities that President Nixon used to describe Everett Dirksen, also describes BOB MICHEL. I would like to share that quote with you:

A politician knows that more important than the bill that is proposed, is the law that is passed.

A politician knows that his friends are not always his allies, and that his adversaries are not his enemies.

A politician knows how to make the process of democracy work, and loves the intricate workings of the democratic system.

A politician knows not only how to count votes, but how to make his vote count.

A politician knows that his words are his weapons, but that his word is also his bond.

A politician knows that only if he leaves room for discussion and room for concession can he gain room for maneuver.

A politician knows that the best way to be a winner is to make the other side feel it does not have to be a loser.

And a politician knows both the name of the game and the rules of the game, and he seeks his ends through the time-honored democratic means.

By being that kind of politician, by being that kind of man, BOB MICHEL became the leader of our party, and one of the leaders of our nation.

I know all my colleagues join with me in saying "thank you" to BOB MICHEL for his remarkable service to Congress and to America.

Mr. MITCHELL addressed the Chair.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I had the privilege of attending a retirement dinner in honor of Representative MICHEL with Senator DOLE and many other of our colleagues and have made a statement about him previously as well. But I want to add my voice in praise of Representative MICHEL.

One of the pleasures of our task has been the opportunity to work with him as the Republican leader in the House of Representatives. He is truly an outstanding person and, I think, really does qualify for the phrase "a nice guy," and a man who has done an outstanding job for his constituents, his party, and his country in the Congress. I will not repeat the earlier statement that I made in his behalf but I wanted to take this opportunity to associate myself with the remarks of Senator DOLE and our other colleagues in Representative MICHEL'S behalf.

TRIBUTE TO DAVID BOREN

Mr. DOLE. Mr. President, the Oklahoma state motto is "Work Conquers All Things." And those words could also be used to describe our colleague from Oklahoma, Senator DAVID BOREN.

During his 16 years in this chamber, Senator BOREN has earned a reputation as one of our hardest working colleagues. In committee or here on the floor, Senator BOREN's vote is often key to victory, and his fingerprints can be found on nearly every issue of importance that comes before the Senate.

Although we represent different political parties, Senator BOREN and I have often found ourselves in agreement on the issues. On the Finance Committee, Senator BOREN has often voted against tax increases and regulations which would harm small businesses. He has also been a voice of reason on many spending issues and for deficit reduction.

Senator BOREN has also devoted countless hours to the issue of campaign finance reform. And while we may not agree as to the best way to achieve reform, no one can deny Senator BOREN's dedication to improving our political system.

Agriculture is another issue where Senator BOREN's hard work can be seen. As a member of the Agriculture Committee, Senator BOREN has fought for America's farm families, and pushed for reform of the Farm Credit System.

Foreign policy is another area where Senator BOREN has left his mark, serving as chairman of the Intelligence Committee for 6 years. In that role, he was a voice for bipartisanship, and he led the committee to adopt new rules designed to plug the leaks of sensitive information from within the committee.

Although Senator BOREN is passionate about many issues, I suppose it could be said that education is the first love of this Rhodes Scholar and former professor at Oklahoma Baptist University.

And, as Members of this Chamber know, it is to education where Senator BOREN will return this November when he becomes president of the University of Oklahoma.

I know all Members of the Senate join with me in wishing DAVID and Molly the best of luck as he continues his life long dedication to making a difference.

SALUTE TO DENNIS DECONCINI

Mr. DOLE. Mr. President, having spent some of my college years in Tuscon, I have always taken a special interest in the people and politics of Arizona.

Over the years, Arizonans have developed a tradition of sending independent and effective Senators to Washington, DC. Barry Goldwater, Paul Fannin, and

Carl Hayden are names that will be long remembered in this Chamber.

And no doubt about it, for the past 18 years DENNIS DECONCINI has continued the tradition of Arizona independence, and Arizona effectiveness.

As a member of the Appropriations Committee, Senator DECONCINI worked for projects of importance to Arizona like the Central Arizona Project, the Mount Graham Telescope, and the Goldwater Center for Science and Technology.

As a member of the Indian Affairs Committee, Senator DECONCINCI has worked tirelessly for the American Indian community that has made so many important contributions to Arizona—and to the United States.

As a member of the Judiciary Committee, Senator DECONCINI used his experience as a county prosecutor to fight for though anticrime laws.

As chairman of the Intelligence Committee, Senator DECONCINI has led the effort to modernize our intelligence capabilities in the post-cold war era.

Senator DECONCINI and I come from opposing political parties, but there were many occasions when we found ourselves on the same side of issues—including last year's NAFTA debate, where Senator DECONCINI's leadership was instrumental.

Mr. President, I join with colleagues from both sides of the aisle in thanking Senator DECONCINI for both his leadership and his friendship. They—and he—will be greatly missed.

TRIBUTE TO JOHN DANFORTH

Mr. DOLE. Mr. President, "The welfare of the people shall be the supreme law." Those words are the State motto of Missouri, and they might also be the motto of the man who has represented Missouri in the Senate for the past 18 years, our colleague JACK DANFORTH.

From his service as an ordained Episcopal Minister, to his years here in the Senate, where he has trumpeted the need for more low-income housing and called attention to the scourge of world hunger JACK DANFORTH has always had the welfare of the people as his top priority.

Senator DANFORTH was elected as attorney general of Missouri when he was only 32 years old, and during his 8 years in that office he earned a reputation as a champion of consumers. He strengthened that position during his service as chairman of the Senate Commerce Committee, where he was one of the driving forces behind laws that increased automobile, rail, and aviation safety.

From his seat on the Finance Committee, Senator DANFORTH has also helped to write America's trade policy, opening markets, while talking straight with nations that close their doors to American products.

His legislative achievements are many, and his personal achievements are just as great. If you were to ask any Senator who they would turn to in a time of crisis—who they would want to provide counsel and friendship when the chips were down, the overwhelming answer would be JACK DANFORTH.

Some politicians leave office because the voters tell them to do so. Others leave before the voters can tell them to do so. And still others leave because they have reached what they believe is retirement age. None of these is the case with Senator DANFORTH.

He is still in his 50's, and there is no doubt that Missourians would again send him to the Senate. In his last election, Senator DANFORTH won 68 percent of the vote sweeping all 114 Missouri counties.

Senator DANFORTH is leaving because he believes there are other avenues in which he can improve the welfare of the people. And I have no doubt that whatever challenge he tackles next, JACK DANFORTH will do exactly that.

Senator DANFORTH and Sally will be greatly missed in the Senate and in this city, and I join all my colleagues in thanking them for their friendship, and in wishing them much happiness in the years to come.

SALUTE TO DAVE DURENBERGER

Mr. DOLE. Mr. President, throughout the health care debate—and throughout countless other debates during his 16 years in this Chamber—DAVE DURENBERGER could be found in the middle of the issue—proposing innovative solutions, and working to find mutual grounds for agreement.

And no doubt about it, when we return to the health care issue next session, we will miss the intelligence and expertise of our colleague from Minnesota.

Patient choice, Medicare cost control, long-term health care, rural health care, helping small businesses through the creation of health insurance purchasing cooperatives, the preservation of the free market system—these are just some of the causes which have benefited from Senator DURENBERGER's leadership.

During the years when Republicans controlled the Senate, Senator DURENBERGER served as chairman of the Finance Subcommittee on Health. During that time, he was a leading sponsor of the provisions of the 1983 Social Security bill that established the prospective payment system for Medicare—one of the most significant measures enacted to cut health care costs.

Along with a seat on the Finance Committee, Senator DURENBERGER and I also share a midwestern background, and a commitment to America's farm families. And throughout his Senate career, DAVID DURENBERGER has fought to expand markets for Minnesota farmers and products.

Minnesota is also a State known for it's pristine environment, and Senator DURENBERGER has used his seat on the Environment and Public Works Committee to fight for a safe environment.

It was his leadership in 1984 that led to the creation of the first Federal program to prevent gasoline and other hazardous materials stored below ground from entering the water supply.

Those of us privileged to know DAVE DURENBERGER know that, above all, he is a considerate and thoughtful friend. I join with all Members of the Senate in wishing him good luck, good health, and Godspeed as he continues to make a difference for Minnesota and for America.

TRIBUTE TO HARLAN MATHEWS

Mr. DOLE. Mr. President, when Harlan Mathews was appointed to the Senate in 1993, the people of Tennessee knew they weren't getting a Senator who would just "fill a seat" for 2 years.

Instead, they were getting a seasoned public servant who would be able to hit the ground running. And that is just what Senator MATHEWS has done throughout this session of Congress.

Regular viewers of C-SPAN know that Senator MATHEWS is frequently in the chair, presiding over the Senate. And on behalf of all Senators on this side of the aisle, I want to thank him for the fairness and integrity he has exhibited as presiding officer.

Senator MATHEWS brought that same fairness and integrity to the issues he has tackled during his time here. He can be especially proud of his work on the Energy and Natural Resources Committee, where he has fought for issues of importance to Tennessee—issues like coal production, research and development activities at the Oak Ridge National Laboratory, and the preservation of the Great Smoky Mountains National Park.

Senator MATHEWS was also involved in two of the most important debates of this session, as he was a strong supporter of NAFTA, and a leading voice on behalf of rural health care initiatives.

From his years in the Navy during World War II, to his 40 years in Tennessee State government, HARLAN MATHEWS has devoted his life to serving his State and his country. And while some might think that his time in the Senate would be a fitting conclusion to the career, I am confident that Senator MATHEWS believes there is much work still to be done, and that his contributions will continue for many years to come.

On the Foreign Relations Committee, Senator MATHEWS has devoted himself to improving America's trade performance, and he was a strong supporter of NAFTA.

TRIBUTE TO HOWARD METZENBAUM

Mr. DOLE. Mr. President, the 1994 edition of "The Almanac of American

Politics" lists what they term "15 key votes" for the 102d Congress and the first part of the 103d Congress. On 14 of those 15 votes, I found myself disagreeing with my colleague from Ohio, Senator METZENBAUM.

And I suppose if you compared our voting records or the 18 years we have served together in the Senate, you would find that Senator METZENBAUM's vote and my vote usually canceled each other out.

And that is what democracy is all about. There is no governing party in America. There is no mandatory philosophy. Voters are free to send men and women to Washington who are conservative, liberal, moderate, or anywhere in between.

While Senator METZENBAUM and I disagree politically and philosophically, no one can deny that he has been one of the most effective and eloquent liberal voices in America for many years.

As Senator METZENBAUM prepares to leave the Senate, I want to salute him for a public service career of great accomplishment and remarkable length.

In fact, it was 52 years ago this November, when HOWARD METZENBAUM was first elected to the Ohio House of Representatives. After 4 years there and 4 years in the State senate, Senator METZENBAUM devoted his time to a very successful business career.

He would return to public service as the campaign manager of two successful U.S. Senate races in Ohio, and the winning candidate in three others.

In a time where some accuse politicians of only saying what people want to hear, HOWARD METZENBAUM stands out. As everyone in this chamber knows, Senator METZENBAUM calls them like he sees them, no apologies asked, and none given.

He is a true American original, and I have no doubt that we will agree to disagree for many years to come. America should have it no other way.

TRIBUTE TO DON RIEGLE

Mr. DOLE. Mr. President, a few years back, our colleague from Michigan Senator RIEGLE, was serving as grand marhsall of a parade in his home State. When he arrived at the parade, he discovered he would be riding in a foreign car. Senator RIEGLE politely refused, and waited until the parade organizers located a Chevrolet. There can be no doubt that during his 18 years in the Senate DON RIEGLE has been a tireless advocate for the men and women who are employed by the American automobile industry, In good times and especially in bad times, he has worked to make their jobs and their futures more secure.

Senator RIEGLE and I have known each other for a long time, having served together in both the House and the Senate. In fact, when Senator RIEGLE and I were in the House together, he was a republican.

Regardless of what party Senator RIEGLE belonged to, and although we have often disagreed on the issues, I have always respected the way in which he has advocated what he believes are the best interests of his State.

I do not know what job Senator RIEGLE will tackle next, but I do know that he will continue to serve as an eloquent and effective spokesman for many issues on which he has made a difference.

SALUTE TO MALCOLM WALLOP

Mr. DOLE. Mr. President, one hazard of serving in public office is that everything you say is usually written down, and can be used in the future to remind you when predictions you might have made did not come to pass.

There are those happy occasions, however, where predictions you once made do come to pass, and where the causes for which you fought are proved right.

And as MALCOLM WALLOP prepares to leave the Senate after 18 years of service, he can do so with the knowledge that on issue after issue after issue, his words and his judgment have been vindicated.

From his very first days in this Chamber in 1977, Senator WALLOP warned about the dangers of the Soviet Union and the critical importance of maintaining an American military and national defense second to none. He also was one of the earliest advocates here in the Senate of the strategic defense initiative, which was later adopted by President Reagan.

Senator WALLOP also warned America early and often about the dangers of communism in our hemisphere, and in the 1980's he led the fight for continued aid for freedom fighters in Nicaragua and in Afghanistan.

Today, of course, the Soviet Union is no longer. Communism has collapsed. And democracy has swept across the globe. And MALCOLM WALLOP can look back with pride that his beliefs were right, and that the help he provided to Ronald Reagan and George Bush made a difference.

Time and again, Senator WALLOP also has warned this Chamber about the dangers of overregulation by the Federal Government. Since nearly half of Wyoming's lands are federally owned, this is a subject very close to Senator WALLOP's heart.

And here again, he has been proven right. Over the years, more and more Senators have come to MALCOLM's point of view, as more and more Americans expressed their frustration with the Federal bureaucracy.

Thanks in part to Senator WALLOP, we have won some battles to reduce the bureaucracy and to cut regulations, but there are still many more to be fought, and we will with MALCOLM's leadership, as we attempt to derail this administration's war on the West.

MALCOLM and his wife, French, have been an important part of the Senate family, and they will be greatly missed. And although he is leaving the Senate, I am confident that MALCOLM will continue to play a role in the great debates of our time. And his voice will be one that will continue to point America in the right direction.

FORWARD DEPLOYMENT OF IRAQI CHEMICAL AGENTS DURING THE PERSIAN GULF WAR

Mr. RIEGLE. Mr. President, on several previous occasions, I have made public important findings on the probable causes of the serious medical problems facing gulf war veterans called gulf war syndrome.

The evidence available continues to mount indicating that exposure to biological and chemical weapons is one cause of these illnesses.

The Department of Defense steadfastly refuses to acknowledge this aspect of the problem. Their blanket denials are not credible. Recent American history provides grievous examples of official military cover-ups and Defense Department mistakes—the poisoning of countless thousands of Vietnam veterans by agent orange is just one compelling example.

To my mind, there is no more serious crime than an official military cover-up of facts that could prevent more effective diagnosis and treatment of sick U.S. veterans.

Today, I will present additional evidence to show that despite repeated automatic denials by the Department of Defense, chemical weapons and chemicals agents were present and found in the war zone.

First, we now have a British report and a U.S. Army report which document in detail the discovery of more than 250 gallons of dangerous chemical agents. According to the military units that were actually there it was mustard gas and another blister agent.

Second, we have evidence of an Army sergeant, who received official Defense Department awards and commendations for injuries from chemical weapons in the Kuwaiti theater of operations that the Pentagon now says did not exist. It is an astonishing example of the lengths the Defense Department is going in order to deny reality.

Lastly, we have received the laboratory findings from a gas mask, its case, and filter, taken from the gulf war battlefield that reveals the presence of fragments of biological materials that cause illnesses similar to gulf war syndrome.

BRITISH AND UNITED STATES ARMY REPORTS

We now have British and United States Army reports that document

the presence of chemical agents in Kuwait—well inside the Kuwaiti theater of operations—well inside areas occupied by United States and British forces. They had been placed there by Iraqi forces during the occupation of Kuwait. The liquid was tested, and over 20 times the presence of chemical agents was confirmed.

In this specific case, chemical specialists from the British Army using a chemical agent monitor, M18A2 chemical agent detector, and detector paper—chemical specialists from the United States Army using a chemical agent monitor, detector paper, and two mass spectrometers, detected chemical mustard agent.

Further, two sophisticated fox chemical detection vehicles' mass spectrometers also identified the presence of phosgene oxime. This was a direct sample—not random vapors collected by the vehicle—as in previously reported cases.

A British soldier who came into contact with the liquid blistered immediately and appeared to be going into shock—as might be predicted from the nature of the agents present.

The tapes were ordered removed from the vehicle and to be sent forward along with a sample of the chemical agents. The soldiers were ordered to give the materials to individuals in unmarked uniforms—unmarked uniforms. Earlier this year, Captain Johnson after hearing that the Department of Defense was denying the presence of chemical agents in Kuwait—forwarded the report on this incident through his chain of command. But the report was returned to him and not forwarded to the Department of Defense.

The Kuwaiti, United States, and British Governments all received reports on this discovery and recovery of bulk chemical agents.

The Department of the Army originally told my staff that prior to releasing Captain Johnson's report they must obtain clearance from the Department of Defense, and that an intelligence review must be conducted. That would seem to contradict their claim that there is no classified information on this subject. They claimed that prior to releasing the British report, they had to get the permission of the British. However, when I received the British report, it was dated July 14, 1994, indicating that it had been prepared in response to my request, in coordination with the Department of Defense. This official dissembling and effort to obscure the facts are a continuation of Defense Department tactics we have seen before on this issue. The serious question remains as to why we were not provided with an official report dating from the time of the incident by the Department of Defense.

A July 14, 1994, report prepared by the British Chemical and Biological Defense Establishment claimed that "in their view" the substance was fuming nitric acid.

But we now have a copy of the British report prepared by the unit actually present at the event, written 3 years earlier on August 8, 1991. I had to find this report myself. It confirms that mustard agent was detected, and that the substance was oily, like mustard agent. Nitric acid is not oily. In my view, this is an important example of a pattern of deliberate misrepresentation of the truth. It is an appalling record.

The U.S. report confirms that not only was mustard agent detected in the container using a mass spectrometer, but also in microdoses on the ground. This would appear to eliminate the possible explanation that the container held fuming nitric acid—rocket fuel oxidizer—so concentrated that it reacted with materials in the mass spectrometer causing false readings when the material was examined. The mass spectrometers in both fox vehicles were also successfully calibrated before and after this detection event.

There is also the issue of how the Department of Defense has handled the investigations into reported chemical agent detection events. We continue to receive reports from individuals, many of whom are no longer in the military—who have been contacted by high ranking military officers assigned to work with the Defense Science Board Task Force investigating this issue. We have received complaints from veterans that rather than trying to seek other witnesses or corroborate their reports, these officers have called to convince them that they were mistaken—that their individual experiences and findings were not credible—and that their statements made to Congress would be refuted. Most recently, an individual associated with this original detection of chemical agents in the war zone was contacted by one of these officers. This officer specifically told the individual that these findings would be refuted by the Department of Defense—even before the Department received the report from the British that was eventually forwarded to me.

I ask my colleagues here in the Senate to evaluate these reports only on their merits; 21 field tests conducted on this substance were positive for mustard agent; both United States and British chemical agent monitor readings confirmed eight bars for mustard gas, a maximum reading indicating the presence of highly concentrated agent; eight of eight mobile mass spectrometer tests, using two separate Fox vehicles and liquid agent in a controlled setting identified identical substances—mustard agent, and phosgene oxime; it was the same color as mustard agent; it was oily like mustard agent; a mobile mass spectrometer reading indicated that microdoses of mustard agent were present in the soil; a British soldier suffered a chemical injury consistent with what would be expected when exposed to these agents, particularly to phosgene oxime; and a Department of Defense explanation described by the National Institute for Standards and Technology variously as "high unlikely," "no likelihood," and "not possible."

ARMY SERGEANT'S "MYSTERY" AWARDS

The second case I would like to share with my colleagues is the story of former Sgt. David Allen Fisher, who also discovered what appears to be a cache of chemical weapons where the Department of Defense says none were deployed.

In this case, as in the other cases like it, it seems impossible to obtain an explanation from the Department of Defense that is consistent with the events as reported by the soldiers present. In August, a Pentagon spokesperson stated that whatever chemicals were encountered in the bunker must have been left over from earlier fighting between Iraq and Iran.

However, in September 1994, that same spokesperson said that he was not aware that any chemical weapons crates were discovered by Mr. Fisher, despite Colonel Dunn's report and despite the fact that Mr. Fisher received a Purple Heart for his injuries from chemical agents. Others who were present that date including the Fox vehicle operators, one of whom received a bronze star and Colonel Dunn corroborate these events. Further, according to Mr. Fisher, this was an active bunker complex with artillery pieces present and their mission there was to go from bunker to bunker searching for Iraqi soldiers. Old chemical weapons, left over from a previous war, would be stored in a separate storage facility; if they were present at an active artillery position, they were deployed with the intention of using them.

What continues to emerge is a deeply troubling pattern of events involving individuals who have received medals—Bronze Stars, Meritorious Service Medals, Army Commendation Medals, and Purple Hearts—in the course of coming into contact with weapons that the Department of Defense insists were not even present in the theater of war. Chemical and biological weapons were either present, or they were not present. These events I have discussed raise serious concerns about the veracity of the Department of Defense's claims as well as their motives. I fully expect to find additional "exceptions" to the Department of Defense assertion that, at no time, were chemical or biological weapons ever found in the theater of operations.

I have no further confidence in the Defense Department's statement on this vital matter. The evidence continues to grow that they will go to any length to deny the facts surrounding this subject.

We now know that there were chemicals found near An Nasiriyah, in an area that was secured by elements of the 18th Airborne Corps. The U.N. confirms that they were there, and a Defense Department official testifying before the Senate Banking Committee confirmed that troops were close to this facility—contradicting previous testimony in the same hearing by another senior Defense Department official;

The medical and technical evidence establishes that chemicals were found in an Iraqi bunker complex south of Basra in an area that was secured by elements of the 3d Armored Division;

According to official records and scientific evidence, chemicals were found in a container in southeastern Kuwait in an area tested by Kuwaiti, British, and American soldiers from the 11th Armored Cavalry Regiment;

And, according to Marine Corps historical documents, two marines were injured by chemical agents in breaching operations during the ground war.

We also know that many of the soldiers that were present during each of these events are now ill and others were given medals.

So what is the truth? Certainly not in the official Defense Department statement that all U.S. troops were far from any chemical agents. Were there 2, 3, 5, 10, or 100 chemical events like those described above? Will Members of Congress and the soldiers have to uncover each and every exposure in order to determine the causes of these illnesses. And what can be best done to treat these sick, and often dying, gulf war veterans?

We cannot allow the U.S. military establishment or our government to turn its back upon hundreds of thousands of Americans and their families who answered their country's call and who were almost certainly exposed to chemical or biological weapons agents during the gulf war. And what of the risk of those same exposures in future wars? Is that why the Department of Defense is behaving in this manner—to hide their lack of ability to adequately protect our troops from these kinds of exposures in future wars?

NEW LABORATORY FINDINGS OF MATERIALS FOUND ON THE BATTLEFIELD

Finally, I have submitted samples for analysis to several renowned laboratories, including the Lawrence Livermore National Laboratory's Forensic Science Center. In biological analyses, based on preliminary testing using advanced DNA analyses and screening techniques, unique DNA sequences were detected for Q-fever and brucella on the inside of a gas mask carrying case, the top of a gas mask filter, and under the rubber seal of masks submitted to my office for analysis by U.S. Persian Gulf war veterans who brought them back from the Middle East.

When additional primer pairs were compared, the findings were negative. These tests were repeated with identical findings—that is, the same identical DNA primer pairs were indicated.

While false positive DNA testing can occur with only a single primer pair analysis, these results can also be indicative of the presence of only a single strand—perhaps due to the presence of another genetically altered biological warfare-related microorganism.

We do know that the United States licensed the export of genetic materials capable of being used to create these types of genetically-altered biological warfare agents to the Iraqi Atomic Energy Commission—an Iraqi governmental agency that conducted biological warfare-related research—prior to the war. One method of creating these genetically altered micro-organisms is by exposing them to radiation. The United States also licensed that export of several species of brucella to Iraqi governmental agencies. Both Q-fever and brucellosis are also endemic to the region.

This study is far from conclusive but points to the need for further research in this area. According to the Lawrence Livermore National Laboratory, biological studies need further attention. Cultures need to be investigated more closely.

In addition many chemical compounds were present in the samples. The scientists at Lawrence Livermore National Laboratory Forensic Science Center believe that additional analysis of more samples may isolate and identify chemicals that in combination may be hazardous, chemical warfare agent compounds, or biological pathogens on the surface of collected items and that more study is warranted.

While these results are preliminary they are also very important. They show that we have the tools to get to the bottom of this problem if we simply choose to use them. Let me repeat that. We have the tools to get to the bottom of this problem if we simply choose to use them.

The human toll continues to rise. Just over 1 year ago, on September 9, 1993, when the first staff report was prepared by the committee, we were only able to estimate the numbers of sick veterans. Since that time we have learned that 5,400 Persian Gulf war veterans has already registered with the Department of Veterans Affairs up to that point. The official Department of Defense Registry numbered only a few hundred. But in just over a year's time the number of veterans who have since been added to these registries has grown by nearly 700 percent. Currently it is estimated that there are 29,000 service men and women on the Department of Veterans Affairs Persian Gulf Registry and 7,000 on the Department of Defense Registry. The Department of Defense Registry is growing at a terrifying rate of about 500 individuals per week. These are horrendous statistics that show the true scale of this problem and the heartlessness and irresponsibility of a military bureaucracy that gives every sign of wanting to protect itself more than the health and well-being of our servicemen and women who actually go and fight our wars.

We have also learned that many of the signs and symptoms of illnesses initially experienced by the veterans of the Persian Gulf war are now being experienced by their spouses and families. This data confirms that these illnesses are becoming a major threat to the health and well-being of a significant and rapidly growing number of individuals and warrants a serious and all out urgent effort by the Government to determine the precise causes of the illnesses.

Mr. President, I ask unanimous consent that the full text of my statement be inserted in the RECORD, and that excerpts from the staff report prepared by the committee on this issue be inserted into the RECORD in the appropriate place at the conclusion of my remarks.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

U.S. CHEMICAL AND BIOLOGICAL EXPORTS TO IRAQ AND THEIR POSSIBLE IMPACT ON THE HEALTH CONSEQUENCES OF THE PERSIAN GULF WAR—COMMITTEE STAFF REPORT NO. 3: CHEMICAL WARFARE AGENT IDENTIFICATION, CHEMICAL INJURIES, AND OTHER FINDINGS

A. BACKGROUND

The Senate Committee on Banking, Housing, and Urban Affairs is responsible for U.S. government legislation and oversight as it effects "dual use" exports—those materials and technologies that can be converted to military uses.

During the Cold War, United States export policy focused primarily on restricting the export of sensitive "dual use" materials and technologies to the Soviet Union and its allies. This myopic approach to the non-proliferation of these materials ultimately resulted in the acquisition of unconventional weapons and missile-system technologies by several "pariah nations" with aggressive military agendas. For the United States, the reality of the dangers associated with these types of policies were realized during the Persian Gulf War. Recognizing the shortcomings of existing policies, and with the dissolution of the Soviet empire, an inquiry was initiated by the Committee into the contributions that exports from the United States played in the weapons of mass destruction programs that have flourished under the direction of Iraqi President Saddam Hussein.

On October 27, 1992, the Committee on Banking, Housing, and Urban Affairs held hearings that revealed that the United States had exported chemical, biological, nuclear, and missile-system equipment to Iraq that was converted to military use in Iraq's chemical, biological, and nuclear weapons program. Many of these weapons—weapons that the U.S. and other countries provided critical materials for—were used against us during the war.

On June 30, 1993, several veterans testified at a hearing of the Senate Committee on Armed Services. There, they related details

of unexplained events that took place during the Persian Gulf War which they believed to be chemical warfare agent attacks. After these unexplained events, many of the veterans present reported symptoms consistent with exposure to a mixed agent attack. Then, on July 29, 1993, the Czech Minister of Defense announced that a Czechoslovak chemical decontamination unit had detected the chemical warfare agent Sarin in areas of northern Saudi Arabia during the early phases of the Gulf War. They had attributed the detections to fallout from coalition bombing of Iraqi chemical warfare agent production facilities.

In August 1993, Senate Banking Committee Chairman Donald W. Riegle Jr. began to research the possibility that there may be a connection between the Iraqi chemical, biological, and radiological warfare research and development programs and a mysterious illness which was then being reported by thousands of returning Gulf War veterans. In September 1993, Senator Riegle released a staff report on this issue and introduced an amendment to the Fiscal Year 1994 National Defense Authorization Act that provided preliminary funding for research of the illnesses and investigation of reported exposures.

When this first staff report was released by Senator Riegle, the estimates of the number of veterans suffering from these unexplained illnesses varied from hundreds, according to the Department of Defense, to thousands, according to the Department of Veterans Affairs. It is now believed that tens of thousands of U.S. Gulf War veterans are suffering from a myriad of symptoms collectively labelled either Gulf War Syndrome, Persian Gulf Syndrome, or Desert War Syndrome. Hundreds and possibly thousands of service men and women still on active duty are reluctant to come forward for fear of losing their jobs and medical care. These Gulf War veterans are reporting muscle and joint pain, memory loss, intestinal and heart problems, fatigue, nasal congestion, urinary urgency, diarrhea, twitching, rashes, sores, and a number of other symptoms.

They began experiencing these multiple symptoms during and after—often many months after—their tour of duty in the Gulf. A number of the veterans who initially exhibited these symptoms have died since returning from the Gulf. Perhaps most disturbingly, members of veteran's families are now suffering these symptoms to a debilitating degree. The scope and urgency of this crisis demands an appropriate response.

This investigation into Gulf War Syndrome, which was initiated by the Banking Committee under the direction of Chairman Riegle, has uncovered a large body of evidence linking the symptoms of the syndrome to the exposure of Gulf War participants to chemical and biological warfare agents, chemical and biological warfare pre-treatment drugs, and other hazardous materials and substances. Since the release of the first staff report on September 9, 1993, this inquiry has continued. Thousands of government officials, scientists, and veterans have been interviewed or consulted, and additional evidence has been compiled. This report will detail the findings of this ongoing investigation.

On February 9, 1994, Chairman Donald W. Riegle, Jr. disclosed on the U.S. Senate floor that the U.S. government actually licensed the export of deadly microorganisms to Iraq. It was later learned that these microorganisms exported by the United States were identical to those the United Nations inspectors found and recovered from the Iraqi biological warfare program.

Throughout this investigation, the Department of Defense has assured the Committee that our troops were never exposed to chemical or biological agents during the Persian Gulf War. They have repeatedly testified in hearings and have made public statements that, at no time, were chemical and biological agents ever found in the Kuwaiti theater of operations.

In February of this year, the Chairman wrote a letter asking them to declassify all information on the exposure of U.S. forces to chemical and biological agents.

Then on May 4, 1994, the Chairman received assurances in a joint letter from Secretary Perry, Secretary Brown, and Secretary Shalala, that "there is no classified information that would indicate any exposures to or detections of chemical or biological weapons agents."[1]

Also in May, Undersecretary of Defense Edwin Dorn in sworn testimony in a hearing before the Committee on Banking, Housing, and Urban Affairs, claimed that all chemical agents were discovered "a great distance from the Kuwait theater of operations."[2]

During the same hearing, another senior Defense Department official was forced to recant part of the statement when confronted with the highly publicized discovery of chemical agents by U.N. inspectors near An Nassiriyah, which was very close to areas in which U.S. forces were deployed.[3]

In fact, we have received reports from Persian Gulf War veterans that U.S. forces actually secured this chemical weapons storage area.

Also during the hearing, a joint memorandum for Persian Gulf War veterans from Secretary of Defense Perry and the Chairman of the Joint Chiefs of Staff was presented. The memorandum stated, in part "there is no information, classified or unclassified, that indicated that chemical or biological weapons were used in the Gulf."[4]

Then, the Department of Defense announced on June 23, 1994, that the Defense Science Board found that "there is no evidence that either chemical or biological warfare was deployed at any level, or that there was any exposure of U.S. service members to chemical or biological warfare agents."[5]

This report raises serious questions about the integrity of the Department of Defense position. It describes events for which the Department of Defense explanations are inconsistent with the facts as related by the soldiers who were present, and with official government documents prepared by those who were present and with experts who have examined the facts.

B. RECOVERY OF CHEMICAL AGENTS IN KUWAIT

August 1991—Sabahiyah High School for Girls

The Committee staff has obtained British and U.S. Army reports which document in detail the discovery of more than 250 gallons of dangerous chemical agents. According to the units that were presents, mustard gas and another blister agent were found in a storage tank in southeastern Kuwait.

These chemical agents were recovered in Kuwait, well inside the Kuwait theater of operations, well inside areas occupied by U.S. and British forces. According to the reports, they had been placed there by Iraqi forces during the occupation of Kuwait. The liquid was tested and over 20 times the presence of chemical agents was confirmed.

The Committee staff has obtained a copy of a recommendation for an Army Commendation Medal that was presented to Sergeant James Warren Tucker for among other things "participating in the mission that located stores of chemicals agents" while deployed in Southwest Asia.[6]

Committee staff has also identified the commander of that unit, Captain Michael F. Johnson, currently with the U.S. Army at The Infantry School at Fort Benning, Georgia—who was awarded a Meritorious Service Medal for his actions.[7]

These two soldiers and as many as six others from the 54th Chemical Troop of the United States Army's 11th Armored Cavalry Regiment were given Army medals for "the positive identification of suspected chemical agent," according to the citation presented to Captain Johnson.[8]

We have obtained the actual reports from two NATO countries who were Coalition members during the Persian Gulf War.[9]

This is a step-by-step analysis of the event as recorded in documents and the testimony of Nuclear Biological and Chemical, or NBC, officers who were there.

A container suspected of containing chemical agents was located in southeastern Kuwait in an area about 50 kilometers north of Saudi Arabia and 4 kilometers west of the Persian Gulf. The precise coordinates are TN18832039 (Magellan)[10] Maps showing the precise location in which this container was found is attached.[11]

According to the British report, on August 5, 1991, several months after the end of the Persian Gulf War, Major J.P. Watkinson of the British Army received orders to investigate a container that was believed to be leaking mustard gas.[12]

According to the official report prepared by Major Watkinson on 7 August 1991, the request to investigate the leaking container was made by Lt. Colonel Saleh Al Ostath of the Kuwaiti Army and agreed to by Mr. Lucas of the Royal Ordinance Corps.[13]

Major Watkinson and his unit, the 21st Explosive Ordinance Disposal Squadron, were taken to the site of the Sabahiyah High School for Girls and directed to a metal storage tank with a capacity of approximately 2,000 liters. According to the report, there appeared to be entry and exit bullet holes of approximately 7.62 caliber in the container.[14]

A photograph of the schoolyard with some of the chemical specialists approaching the tank that contained the chemical agents is attached.[15]

According to Major Watkinson's report, the container was leaking a brown vapor from both holes. The school was not in use and there were U.S. civilian contractors clearing explosives and rubbish from the area.[16]

The school security guard told the British that the tank was not there before the war. He first noticed the tank when he returned to the school after the war on March 20, 1991—four and a half month prior to these tests. The British report notes that the school was used as an Iraqi defensive position during the war.[17]

Major Watkinson ordered all personnel to move up wind, and after putting on his chemical protective clothing, approached the container and tested the brown colored vapor with a Chemical Agent Monitor (CAM).[18]

The Chemical Agent Monitor gave a reading of eight (8) bars on H, for mustard agent—a maximum reading indicating a highly concentrated agent—and no bars on G, indicating no nerve agent present.[19]

This was the first positive test for chemical mustard agent at this location.

Distilled mustard is described in the Merck Index, a handbook for chemists, as an oily

[1] Footnotes at end of article.

substance. It is also described as being amber brown in color—remember Watkinson's report describes it as a brown substance.[20]

A photo and diagram of a Chemical Agent Monitor or CAM in use showing the types of displays that a chemical detection specialist would observe is attached.[21]

A 8-bar reading indicates a highly concentrated agent. These monitors are still in use by both U.S. and British forces.

Watkinson then tested the vapor with one color detector paper and nothing happened. He used three color detector paper and it turned pink indicating the presence of mustard agent.[22] This was the second positive test for mustard agent.

On a second visit to the container, according to the report, he inserted a wire with one of the bullet holes, and according to his report, "wiped the oily substance on both types of detector paper."[23]

Again the oily nature of the substance indicates a property that is consistent with the properties of mustard agent.

The one color paper turned brown and the three colored paper turned pink, the latter again indicating the presence of mustard agent. This was the third positive test for mustard agent. Major Watkinson then sealed both in the container with masking tape.[24]

On yet a third visit to the container, the holes were uncovered and the vapor was tested using an M18A2 chemical detector kit. This test was repeated six times. On four of the tests the color indicator immediately turned blue indicating mustard (or "H") agent.[25]

For the remaining two tests, the color indicator went yellow but later turned blue.[26] There were the fourth through the ninth positive tests for mustard agent.

Another wire dip test was conducted using the three color detector paper from the M18A2 kit and the paper turned pinkish/orange indicating mustard agent for the tenth time. The bullet holes were resealed using industrial silicone filler and plaster of paris bandages. The container was checked with the Chemical Agent Monitor for leaks and the area was secured.[27]

On August 7, 1991, the Commander of the 11th Armored Cavalry Regiment was asked to send two FOX chemical reconnaissance vehicles, in support of the Kuwaiti Ministry of Defense and the Royal Ordinance Corps, to assist Major Watkinson in confirming the presence of a chemical agent.[28]

Since this was a joint and combined live agent chemical detection mission, involving both U.S. and British forces, detailed rehearsals occurred to ensure that no mistakes were made. The unit then travelled to the Sabahiyah High School for Girls in southeastern Kuwait.[29]

On August 8, 1991, one FOX team moved to the area near the container and began to conduct point surveys inserting the detection probe of the FOX vehicle into the ground to a depth of about four centimeters. The mass spectrometer showed microdoses of chemical mustard agent in the ground.[30] This was the eleventh confirmation'

At the same time another collection team in full chemical protective clothing walked to the container, estimated to contain between 800-1000 liters, or about 250 gallons of liquid, with Chemical Agent Monitors and other assorted chemical detection equipment. This team removed the storage container's seals and there was a discharge of pressurized vapor into the air.[31]

Captain Johnson's report confirms that he saw a light copper to amber colored vapor exit from the hole.[32] Again, mustard agent is described as an amber brown liquid.[33]

Tests were conducted with both the Chemical Agent Monitor and chemical detection paper. The detection paper confirmed the presence of chemical mustard agent; the twelfth confirmation. The Chemical Agent Monitor registered eight bars, again confirming highly concentrated mustard agent. This was the thirteenth confirmation of mustard agent by the specialists present.[34]

Captain Johnson's unit then inserted a medical syringe with a catheter tube into the container to extract liquid agent for detection paper, Chemical Agent Monitor, and FOX testing.[35]

The sample was placed into a metal dish. By the time a ground team member moved to the rear of the Fox to the probe, there was not enough liquid available to get a reliable reading.[36]

Another attempt was made and the ground team extracted a larger sample of liquid and placed it into the metal dish. The dish was moved to the FOX probe and the liquid was drawn for analysis—not random vapors—not oil fumes—but the actual liquid chemical agent. Within six seconds, the mass spectrometer detected and identified the liquid as highly concentrated mustard agent.[37] Both four point and full spectrum readings were obtained, according to Captain Johnson, in each of the mass spectrometer analyses.[38] This therefore was the fourteenth (4 point) and fifteenth (full spectrum) confirmation of mustard agent.

Further analysis by the system also indicated the presence of traces phosgene, a nonpersistent choking agent, and phosgene oxime, a blister agent. Another test was conducted to validate the findings. Again the Fox vehicle confirmed the presence of mustard agent for the sixteenth and seventeenth time, and again phosgene, and phosgene oxime were confirmed.[39]

Captain Johnson ordered yet another mass spectrometer test, utilizing the second FOX vehicle. The team in the second vehicle was not informed of the findings of the first vehicle, to rule out any possibility of biased readings from the team in the second vehicle. The team in the second FOX vehicle repeated the test and reported the same findings except that this time the reported levels of phosgene oxime were much higher. They also performed a second test to confirm their results. Again both 4-point and full spectrum analysis was conducted during each of these tests.[40] These were the eighteenth through twenty-first confirmations.

While the Chemical Agent Monitor and many other chemical detection kits available to military forces only detect H, or mustard agents, and G and V nerve agents, the FOX chemical reconnaissance vehicle accurately detects 60 known chemical agents using a computerized mobile mass spectrometer.[41]

It is capable of identifying the individual component chemical elements, such as sulfur, hydrogen, chlorine, and so forth; their molecular composition; and their molecular weight. This provides a scientific means to precisely identify substances.

In response to a request by the Committee for an explanation from the Department of Defense, Dr. Theodore Prociv, Deputy Assistant for Chemical and Biological Matters (Atomic Energy), replied on July 26 that the Department of Defense analysis of the FOX tapes revealed that the ions matched in three of four categories for a mustard agent, but matched nitric acid in all four categories.[42]

Committee staff solicited an opinion from the National Institute of Standards and Technology regarding the accuracy of this explanation.[43]

On September 6, in response to several specific questions, Dr. Stephen Stein, of the Institute, replied that "HD [mustard] has no major peaks in common with those expected to arise directly from fuming nitric acid," and that it is "highly unlikely that a properly functioning mass spectrometer would produce any of the major peaks of nitric acid or nitrogen oxides from HD." Furthermore, "if fuming red nitric acid did not decompose prior to detection (ionization) there would be no possibility of mistaking it for HD."[44]

The commander of the unit said that the tests were run using both the four principle mass peaks and full spectrum analysis on the substance in question. The tests were run twice each by two FOX vehicles. The mass spectrometers were checked for calibration before and after each test, with no problems noted.

Each of the four tests identified identical substances—namely; mustard agent and phosgene oxime. When asked specifically, "how likely is it that under these circumstances that the computer algorithm identified nitric acid as these substances," Dr. Stein responded that "if fuming red nitric acid did not react prior to detection, there is no likelihood that either the four peak analysis or the full spectrum analysis would lead to false identification of mustard."[45]

And, "if nitric acid did react, the reaction products might generate a large number of peaks. Some of these might fortuitously be those characteristic of HD or other chemical agents and therefore might produce a false positive 4-peak identification of HD. A robust full spectrum matching algorithm, however, would not be expected to falsely identify mustard."[46]

The ground collection team then extracted a larger sample from the container and prepared it for transport from the area for further testing and evaluation.[47]

According to Captain Johnson's report and other eyewitness testimony, a member of the British team was injured while collecting a sample of the chemical agent. Some of the liquid agent made contact with the soldiers left wrist. The soldier immediately reacted to the liquid and was in severe pain and was believed to be going into shock.[48]

The injured soldier was quickly taken to a decontamination site and covered with decontamination powder and cut out of his chemical protective clothing.[49] A photograph of the British soldier on the FOX vehicle and his clothing laying in a pile beside the vehicle is attached.[50]

Dr. Prociv in his July 26, 1994 letter to the Committee reported that the injured soldiers clothing had been found by the British government to have been burned by fuming nitric acid in tests conducted at Porton Down.[51] Previously, in response to direct questioning by Committee Staff, Captain Johnson stated that the contaminated suit was burned, that is, incinerated, at the site.[52]

The decontamination team then doused the soldier with a decontamination solution. Within one minute, a small blister was observed forming on his left wrist the size of a pinhead. About five minutes later, the blister had already reached the size of a U.S. fifty cent piece coin. Medics on the scene screened the victim for residual liquid contamination and sent him to the hospital for further treatment. After the casualty was evacuated, the rest of the unit and equipment was decontaminated.[53]

According to Military Chemical and Biological Agents: Chemical and Toxicological Properties, mustard agents acting alone may take hours to form blisters, but phosgene oxime acts within 30 seconds leaving a blanched area and immediately forms a red rash-like ring. With phosgene oxime, instant death from systemic shock or trauma is possible from exposure.[54]

The reported reaction of the British casualty was as might have been predicted when exposed to the identified agents. The fate of this inured British soldier is unknown.

After completing their testing, the U.S. FOX team leaders were ordered to remove the tapes from the mass spectrometer of the FOX vehicles by Lieutenant Colonel Killgore, the chemical officer for Task Force Vicotry.[55] These tapes are the paper records of the chemical breakdown of the liquid or vapors and are produced by the mobile mass spectrometer in the FOX vehicle.

The tapes and the collected samples were reportedly turned over to personnel wearing desert camouflage uniforms with no rank or distinguishing patches.[56] Captain Johnson does not know what happened to the tapes or samples as he was ordered from the scene after his unit's mission was completed.[57]

Dr. Prociv in his written response to the Committee stated that these were U.N. personnel. According to Lt. Colonel Killgore, while they were United Nations personnel, they were assigned to the U.N. team from the British Chemical and biological Defense Establishment at Porton Down—British Ministry of Defence employees.[58] In a subsequent inquiry, the U.N. could produce no written records of the findings of the U.N. team at the site.

Conclusions—

Chemical mustard agent was detected by: chemical specialists from the British Army using a Chemical Agent Monitor, M18A2 chemical agent detector, and detector paper; and, chemical specialists from the United States Army using a Chemical Agent Monitor, detector paper, and two mass spectrometers.

Phosgene oxime was detected by: two sophisticated FOX vehicles' mass spectrometers.

These were direct samples—not random vapors collected by the vehicle—as in previously reported cases.

As cited above, mass spectrometry is capable of identifying the individual chemical elements, such as sulfur, hydrogen, chlorine, and so forth; their molecular composition; and, their molecular weight. This provides a means to precisely identify substances. This was not an intake of random fumes by a moving vehicle in heavy smoke, it was a direct analysis of liquid agent drawn from the container.

This was not the only confirmation of the identity of the chemical agents present—the results were confirmed by nearly every detector deployed with U.S. and British forces—in a controlled setting.

A British soldier who came into contact with the liquid blistered immediately and appeared to be going into shock—as might be predicted from the nature of the agents present.

The tapes were ordered removed from the vehicle and forward with a sample of the chemical agents. The soldiers were ordered to given the materials to individuals in unmarked uniforms and Captain Johnson, who earlier this year, after hearing that the Department of Defense was denying the presence of chemical agents in Kuwait, forwarded the report on this incident through his chain of command, and had the report returned to him. It was not forwarded to the Department of Defense.

The Kuwaiti, U.S., and British governments all received reports on this recovery of bulk chemical agents.

While these reports are not classified, the Department of Defense has consistently maintained that no chemical agents were located in areas occupied by U.S. forces—including in testimony before committees of both the House of Representatives and the Senate.

The Department of the Army originally told Committee staff that prior to releasing Captain Johnson's report they must obtain clearance from the Department of Defense, and that an intelligence review must be conducted.[59] That would seem to contradict the claim that there is no classified information on this subject. They claimed that prior to releasing the British report, they must get the permission of the British.[60] However, when British report was received, it was dated July 14, 1994, indicating that it had been prepared in response to the Committee request, in coordination with the Department of Defense.[61]

The Committee was not provided with an official British report dating from the time of the incident by the Department of Defense as requested. A copy of that report was obtained by the Committee outside of Department of Defense channels. This official report, dated August 7, 1991, confirms that mustard agent was detected, and that the substance was oily, like mustard agent.[62] Nitric acid is not oily.

The U.S. report, prepared by Captain Johnson, confirms that not only was mustard agent detected in the container using a mass spectrometer, *but also in microdoses on the ground.*[63] This would eliminate the explanation that the container held fuming nitric acid—rocket fuel oxidizer—so concentrated that if reacted with materials in the mass spectrometer causing false readings when the material was examined. The mass spectrometers in both FOX vehicles were also successfully calibrated before and after this detection event.

There is also the issue of how the Department of Defense has handled this and other investigations into reported chemical agent detection events. Committee staff continues to receive reports from individuals, many of whom are no longer in the military—civilians who have been contacted by high ranking military officers assigned to work with the Defense Science Board Task Force investigating this issue. We have received complaints from veterans that rather than trying to seek other witnesses or corroborate their reports, these officers have called to convince them that they were mistaken. That their findings were not credible—that their statements made to Congress would be refuted.[64] Most recently, an individual associated with this detection of chemical agents was contacted by one of these officers. This officer specifically told the individual that these findings would be refuted by the Department of Defense—even before the Department received the report from the British that was eventually forwarded to the Committee.

In this case there were 21 field tests conducted on this substance which were positive for mustard agent; both U.S. and British Chemical Agent Monitor readings confirmed 8 bars for mustard gas, a maximum reading indicating the presence of highly concentrated agent; 8 of 8 mobile mass spectrometer tests, using two separate FOX vehicles and liquid agent in a controlled setting identified identical substances—mustard agent, and phosgene oxime; it was the same color as mustard agent; it was oily like mustard agent; a mobile mass spectrometer reading indicated that microdoses of mustard agent were present in the soil; a British soldier suffered a chemical injury consistent with what would be expected when exposed to these agents, particularly to phosgene oxime; and the Department of Defense explanation was described by the National Institute for Standards and Technology variously as "highly unlikely," "no likelihood," and "not possible."

C. CHEMICAL INJURY AND CHEMICAL STORAGE BUNKER

Iraqi Bunker Complex—Southeastern Iraq (between Kuwaiti border and Basra) March 1, 1991

This case involves the experiences of former Sergeant David Allen Fisher, who also discovered what appears to have been a cache of chemical weapons where the Department of Defense says none were deployed.

While searching an Iraqi ammunition bunker in Iraq in an area south of Basra, Mr. Fisher brushed up against some wooden crated marked with skulls and crossbones. Within 8 hours his arm had reddened and began to sting. Several hours later, he noticed painful blisters on this upper arm.[65]

In his report of the incident, in a Question and Answer Brief prepared for the U.S. Central Command (CENTCOM) Public Affairs Office, and in a subsequent journal article, Colonel Michael Dunn, who would later become the commander of the U.S. Army Medical Research Institute for Chemical Defense confirmed that Fisher's injuries were the result of exposure to chemical agents.[66]

In this case, as in the other cases like it, it seems impossible to obtain an explanation from the Department of Defense that is consistent with the events as reported by the soldiers present. In August, a pentagon spokesperson stated that whatever chemicals were encountered in the bunker must have been left over from earlier fighting between Iraq and Iran.[67]

However, in September 1994, that same spokesperson said that he was not aware that any chemical weapons crates were discovered by Mr. Fisher, despite Colonel Dunn's report and despite the fact that Mr. Fisher received a Purple Heart for his injuries.[68] Others who were present that date including the FOX vehicle operators, one of whom received a bronze star, and Colonel Dunn corroborate these events. Further, according to Mr. Fisher, this was an active bunker complex with artillery pieces present and their mission there was to go from bunker to bunker searching for Iraqi soldiers.[69] Old chemical weapons, left over from a previous war, would be stored in a separate storage facility; if they were present at an active artillery position, they were deployed with the intention of using them.

D. CHEMICAL DETECTION AND CHEMICAL INJURIES

Breaching Operations—Second Marine Division—Southwestern Kuwait February 24, 1991

The following is an excerpt take directly from "U.S. Marines in the Persian Gulf, 1990–1991: With the 2D Marine Division in Desert Shield and Desert Storm," an official report published in 1993 by the History and Museums Division, Headquarters, United States Marine Corps, Washington, DC.

"The use of chemical munitions by the Iraqis had been expected, but happily had not yet occurred. At approximately 0656, the

"Fox" chemical reconnaissance vehicle at Red 1 detected a "trace" of mustard gas, originally thought to be from a chemical mine. The alarm was quickly spread throughout the division. Since everyone had been to don his protective outer garments and boots the previous evening, it was only necessary to hurriedly pull on a gas-mask and protective gloves to attain MOPP level 4. A second "Fox" vehicle was sent to the area, and confirmed the presence of an agent that had probably been there a long time. Unknown in its origin, it was still sufficiently strong to cause blistering on the exposed arms of two AAV crewmen. Work continued on the clearance of the lanes, and MOPP level was reduced to 2 after about a half-hour."[70]

Several issues are raised by this report. First, chemical mustard agent was detected by the FOX vehicles with the unit. Second, two marines were reportedly injured as a result of exposure to these agents. Third, it is highly unlikely that the chemical agents could have been there "a long time." These detections were made in southwestern Kuwait, an area not occupied by Iraq until after the invasion of Kuwait on August 2, 1990. Investigation by the Committee into this incident continues.

E. CHEMICAL AND BIOLOGICAL ANALYSIS OF EQUIPMENT

The Committee has submitted samples for analysis to several renowned laboratories, including the Lawrence Livermore National Laboratory's Forensic Science Center.[71]

In biological analyses, based on preliminary testing using advanced DNA analyses and screening techniques, unique DNA sequences were detected. Q-fever and Brucella were indicated on the inside of a gas mask carrying case, the top of a gas mask filter, and under the rubber seal of a mask submitted to the Committee for analysis by U.S. Persian Gulf War veterans who brought them back from the Middle East.[72]

When additional primer pairs were compared, the findings were negative. These tests were repeated with identical findings—that is, the same identical unique DNA primer pairs were indicated.[73]

While false positive DNA testing can occur with only a single primer pair analysis, these results can also be indicative of the presence of only a single strand—perhaps due to the presence of another genetically-altered biological warfare-related microorganism.[74]

We do know that the U.S. licensed the export of genetic materials capable of being used to create thee types of genetically-altered biological warfare agents to the Iraqi Atomic Energy Commission—an Iraqi governmental agency that conducted biological warfare-related research—prior to the war.[75] One method of creating these genetically altered micro-organisms is by exposing them to radiation. The U.S. also licensed the export of several species of brucella to Iraqi governmental agencies.[76] Both Q-fever and Brucellois are also endemic to the region.[77]

This study is far from conclusive but points to the need for further research in this area. According to the Lawrence Livermore National Laboratory, biological studies need further attention. Cultures need to be investigated more closely. Experiments to amplify the whole genome and to allow for the manipulation of increased concentrations of DNA by advanced testing would likely be more precise in identifying threat organisms—organisms that may be causing Gulf War Syndrome.

In addition many chemical compounds were present in the samples. The scientists at Lawrence Livermore National Laboratory Forensic Science Center believe that additional analysis of more samples may isolate and identify unusual hazardous chemical compounds, chemicals that in combination may be hazardous, chemical warfare agent compound's or biological pathogens on the surface of collected items—and that much more study is warranted.[78]

While these results are preliminary they are also very important. They show that we have the tools to get to the bottom of this problem if we simply choose to use them.

F. COMMITTEE STAFF REMARKS

What seems to be emerging is a troubling pattern of events involving individuals who have received medals—Bronze Stars, Meritorious Service Medals, Army Commendation Medals, and Purple Hearts—in the course of coming into contact with unconventional weapons that the Department of Defense continues to insist were not even present in theater. Chemical and biological weapons were either present, or they were not present. If weapons such as these were present, they were deployed doctrinally, as a matter of Iraqi Army practice, not in isolated instances. These events raise serious concerns about the veracity of the Department of Defense's claims as well as their motives. These reports call into question each and every Department of Defense refutation of previously reported detections and each and every triggered chemical agent detection alarm.

We know that there were chemicals found near An Nasiriyah, in an area that was secured by elements of the 18th Airborne Corps. The U.N. confirms that they were there, and a Defense Department official testifying before the Senate Banking Committee confirmed that troops were close to this facility—contradicting previous testimony in the same hearing by another senior Defense Department official.

Careful scrutiny leads us to conclude that they were found in a container in southeastern Kuwait in an area tested by Kuwaiti, British, and American soldiers from the 11th Armored Cavalry Regiment.

We know from the reports on Sergeant Fisher that they were found in an Iraqi bunker complex south of Basra in an area that was secured by elements of the 3rd Armored Division.

Two U.S. Marines were injured by chemical agents in breaching operations during the "ground war."

We now know that many of the soldiers that were present during each of these events are ill—others were given medals for their actions. Many of the veterans of the Gulf War and their families are now suffering permanently debilitating illnesses—some have died. Currently it is estimated that there are 29,000 servicemen and women on the Department of Veterans Affairs Persian Gulf Registry and 7,000 on the Department of Defense Registry. The Department of Defense Registry is growing at a rate of about 500 individuals per week.

Just over one year ago, on September 9, 1993, when the first staff report was prepared for the Chairman, we were forced to estimate the numbers of sick veterans. Since that time we have learned that 5,400 Persian Gulf War veterans had registered with the Department of Veterans Affairs up to that point. The Department of Defense Registry numbered only a few hundred. In just over a year's time the number of veterans who have registered in these registries has grown by nearly 700%. We have also learned that many of the signs and symptoms of illnesses initially experienced by the veterans of the Persian Gulf War are now being experienced by their spouses and families. This data confirms that these illnesses are becoming a major threat to the health and well-being of a significant and rapidly growing number of individuals and warrants a serious and immediate effort by the government to determine the precise causes of the illnesses.

FOOTNOTES

[1] Letter to Chairman Donald W. Riegle, Jr., Committee on Banking, Housing, and Urban Affairs from Secretary of Defense William J. Perry, Secretary of Veterans Affairs Jesse Brown, and Secretary of Health and Human Services Donna Shalala, dated May 4, 1994. (Appendix A-1)

[2] Testimony of Dr. Edwin Dorn, Undersecretary of Defense for Personnel and Readiness before the U.S. Senate Committee on Banking, Housing, and Urban Affairs during a hearing convened on U.S. Export Policies to Iraq and Their Possible Impact on the Health Consequences of the Persian Gulf War, on May 25, 1994. (Appendix A-2)

[3] Department of Defense testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs during a hearing convened on U.S. Export Policies to Iraq and Their Possible Impact on the Health Consequences of the Persian Gulf War, on May 25, 1994. (Appendix A-3)

[4] Memorandum for Persian Gulf War Veterans, Persian Gulf War Health Issues, from John M. Shalikashvili, Chairman of the Joint Chiefs of Staff and William J. Perry, Secretary of Defense, dated 25 May 1994. (Appendix A-4)

[5] "*Report of the Defense Science Board Task Force on Persian Gulf War Health Effects*," Office of the Undersecretary of Defense for Acquisition and Technology (Washington, D.C.: Department of Defense, June 1994); and Department of Defense Press Release, June 23, 1994.

[6] Recommendation for Award of Army Commendation Medal, Sergeant James Warren Tucker, Decontamination Platoon Squad Leader, 54th Chemical Troop, 11th Armored Cavalry Regiment, dated July 1993. (Appendix B-1)

[7] Recommendation for and Award of Meritorious Service Medal, Captain Michael F. Johnson, Troop Commander, 54th Chemical Troop, 11th Armored Cavalry Regiment, dated January 1993. (Appendix B-2)

[8] Ibid.

[9] Memorandum for Director, CATD, Iraqi Chemical Agents—Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994—FOR OFFICIAL USE ONLY—(Appendix B-3). Initial Report: Suspected Chemical Container, prepared by Major J.P. Watkinson, Officer Commanding, 21st EOD Squadron Group, Royal Ordinance (United Kingdom), dated 7 August 1991—RESTRICTED: MANAGEMENT IN CONFIDENCE—(Appendix B-4).

[10] Ibid.

[11] From Initial Report: Suspected Chemical Container, prepared by Major J.P. Watkinson, Officer Commanding, 21st EOD Squadron Group, Royal Ordinance (United Kingdom), dated 7 August 1991—RESTRICTED: MANAGEMENT IN CONFIDENCE—(Appendix B-5, B-6).

[12] Initial Report: Suspected Chemical Container, prepared by Major J.P. Watkinson, Officer Commanding, 21st EOD Squadron Group, Royal Ordinance (United Kingdom), dated 7 August 1991—RESTRICTED: MANAGEMENT IN CONFIDENCE—(Appendix B-4).

[13] Ibid.

[14] Ibid.

[15] Appendix B-7.

[16] Initial Report: Suspected Chemical Container, prepared by Major J.P. Watkinson, Officer Commanding, 21st EOD Squadron Group, Royal Ordinance (United Kingdom), dated 7 August 1991—RESTRICTED: MANAGEMENT IN CONFIDENCE—(Appendix B-4).

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] Susan Budavari, ed., "*The Merck Index: An Encyclopedia of Chemicals, Drugs, and Biologicals, Eleventh Edition*" (Rahway, N.J.: Merck and Co., Inc., 1989), pp. 995-996. (Appendix B-8) James A.F. Comptom, *Military Chemical and Biological Agents: Chemical and Toxicological Properties* (Caldwell, N.J.: The Telford Press, (September 1987), 9-17). (Appendix B-9)

[21] *Jane's NBC Protection Equipment, 1990–91*, (London, U.K.: Jane's Information Group, 1991). (Appendix B–10).

[22] Initial Report: Suspected Chemical Container, prepared by Major J.P. Watkinson, Officer Commanding, 21st EOD Squadron Group, Royal Ordinance (United Kingdom), dated 7 August 1991—RESTRICTED: MANAGEMENT IN CONFIDENCE—(Appendix B–4).

[23] Ibid.

[24] Ibid.

[25] Ibid.

[26] Ibid.

[27] Ibid.

[28] Memorandum for the Commander, 11th ACR, Tasking Number 91–047, dated 7 August 1991 from Joseph W. Miller, Lieutenant Colonel, GS, ACofs, G–3. (Appendix B–11)

[29] Memorandum for Director, CATD, Iraqi Chemical Agents—Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICAL USE ONLY—(Appendix B–3).

[30] Ibid.

[31] Ibid.

[32] Ibid.

[33] Ibid.

[33] James A.F. Comptom, "*Military Chemical and Biological Agents: Chemical and Toxicological Properties*" (Caldwell, N.J.: The Telford Press, (September 1987), 9–17). (Appendix B–9)

[34] Memorandum for Director, CATD, Iraqi Chemical Agents—Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[35] Ibid.

[36] Ibid.

[36] Ibid.

[37] Ibid.

[38] Staff interviews with Captain Johnson and Sergeant Tucker.

[39] Memorandum for Director, CATD, Iraqi Chemical Agents Information Paper; To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[40] Ibid.

[41] Memorandum for Director, CATD, Iraqi Chemical Agents Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[42] Letter to Chairman Donald W. Riegle, Jr., Committee on Banking, Housing, and Urban Affairs, from Dr. Theodore M. Prociv, Deputy for Chemical and Biological Matters, Office of the Assistant Secretary of Defense for Atomic Energy, dated July 26, 1994. (Appendix B–12)

[43] Committee inquiry to the National Institute of Standards and Technology, dated August 1, 1994. (Appendix B–13)

[44] Letter to Committee staff from Dr. Stephen E. Stein, Ph.D., Director, National Institute for Standards and Technology, Director, Mass Spectrometry Data Center, Chemical Science and Technology Laboratory, dated September 6, 1994. (Appendix B–14).

[45] Ibid.

[46] Ibid.

[47] Memorandum for Director, CATD, Iraqi Chemical Agents Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[48] Ibid.

[49] Ibid.

[50] Appendix B–15.

[51] Letter to Chairman Donald W. Riegle, Jr., Committee on Banking, Housing, and Urban Affairs, from Dr. Theodore M. Prociv, Deputy for Chemical and Biological Matters, Office of the Assistant Secretary of Defense for Atomic Energy, dated July 26, 1994. (Appendix B–10).

[52] Committee staff interviews with Captain Michael F. Johnson.

[53] Memorandum for Director, CATD, Iraqi Chemical Agents Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[54] James A.F. Comptom, "*Military Chemical and Biological Agents: Chemical and Toxicological Properties*" (Caldwell, N.J.: The Telford Press, (September 1987), 9–17. (Appendix B–16)

[55] Memorandum for Director, CATD, Iraqi Chemical Agents Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[56] Ibid.

[57] Staff interviews.

[58] Memorandum for the Office of the Assistant Secretary of Defense for Chemical Biological Matters (OASD(CBM)), Suspect Chemical Container found in Kuwait City, Kuwait, in August 1991, Don W. Killgore, Lieutenant Colonel, Technical Inspections Branch, Office of the Inspector General, Department of the Army, July 29, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–17).

[59] Staff interviews with Office of Legislative Affairs, U.S. Department of the Army.

[60] Ibid.

[61] Memorandum to Lieutenant Colonel Vicki Merriman, Office of the Deputy Assistant to the Secretary of Defense for Chemical and Biological Matters from Dr. Graham S. Pearson, Director General, Chemical and Biological Defence Establishment, Ministry of Defence, Porton Down, Salisbury, Wilts, U.K., Suspect Chemical Container: Kuwait City: August 1991. (Appendix B–18)

[62] Initial Report: Suspected Chemical Container, prepared by Major J.P. Watkinson, Officer Commanding, 21st EOD Squadron Group, Royal Ordinance (United Kingdom), dated 7 August 1991—RESTRICTED: MANAGEMENT IN CONFIDENCE—(Appendix B–4).

[63] Memorandum for Director, CATD, Iraqi Chemical Agents—Information Paper: To Present First Hand Knowledge of Iraqi Chemical Agents Identified in Kuwait, prepared by Michael F. Johnson, Captain, CM NBC Branch, January 4, 1994.—FOR OFFICIAL USE ONLY—(Appendix B–3).

[64] Letter of complaint from Mr. Randall Vallee, September 23, 1994 (Appendix B–19) and staff interviews.

[65] Information Paper: Chemical Agent Exposure—Operation Desert Storm, prepared and authenticated by Colonel Michael A. Dunn, March 5, 1991. (Appendix C–1)

[66] Information Paper: Chemical Agent Exposure—Operation Desert Storm, prepared and authenticated by Colonel Michael A. Dunn, March 5, 1991. (Appendix C–1), Question and Answer Brief prepared for the U.S. Central Command (CENTCOM) Public Affairs Office, March 1991 (Appendix C–2), Lieutenant Colonel John V. Wade, Major Robert M. Gum, and Colonel Michael A. Dunn, "Medical Chemical Defense in Operation Desert Shield and Desert Storm," Journal of the U.S. Army Medical Department, (January-February 1992), pp. 34–36. (Appendix C–3)

[67] Thomas D. Williams, "Veteran's Story Counters Official One on Gas War," The Hartford Courant (September 21, 1994) A2. (Appendix C–4)

[68] Ibid.

[69] Staff interviews.

[70] Lieutenant Dennis P. Mroczkowski, "U.S. Marines in the Persian Gulf, 1991: With the 2d Marine Division in Desert Shield and Desert Storm," (Washington, D.C.: History and Museums Division, Headquarters, U.S. Marine Corps, 1993), p. 41 (Appendix D–1), p. 45 (Appendix D–2).

[71] Laboratory analysis request from Chairman Donald W. Riegle, Jr., Committee on Banking, Housing, and Urban Affairs to the Lawrence Livermore National Laboratory Forensic Science Center, dated April 15, 1994. (Appendix E–1)

[72] Brian Andresen, Ph.D., Jackie Stilwell, M.S., Patrick Grant, Ph.D., Jeff Haas, M.S., Richard Whipple, B.A., and Armando Arcaraz, M.S., "Preliminary Results of Gas Masks and Exposure-Monitoring Equipment Associated with Desert Storm: Chemical and Biological Analyses of First Samples Sent," Forensic Science Center, J Division/NAI Directorate, Lawrence Livermore National Laboratory, June 1994 (Appendix E–2); Staff interviews with laboratory personnel.

[73] Ibid.

[74] Ibid.

[75] American Type Culture Collection, Rockville, Maryland (January 21, 1994).

[76] American Type Culture Collection, Rockville, Maryland (January 21, 1994).

[77] Robert Berkow, M.D., Editor-in-Chief, The Merck Manual of Diagnosis and Therapy, Sixteenth Edition (Rahway, N.J.: Merck and Co., Inc., 1992). Q-fever (Appendix E–3) and Brucellosis (Appendix E–4) summaries attached.

[78] Brian Andresen, Ph.D., Jackie Stilwell, M.S., Patrick Grant, Ph.D., Jeff Haas, M.S., Richard Whipple, B.A., and Armando Arcaraz, M.S., "Preliminary Results of Gas Masks and Exposure-Monitoring Equipment Associated with Desert Storm: Chemical and Biological Analyses of First Samples Sent," Forensic Science Center, J Division/NAI Directorate, Lawrence Livermore National Laboratory, June 1994 (Appendix E–2); Staff interviews with laboratory personnel.

ON THE RETIREMENT OF U.S. MARSHAL CHRISTIAN HANSEN, JR.

Mr. JEFFORDS. Mr. President, I want to take a few minutes of the Senate's time today to pay a small bit of homage to a longstanding and outstanding Vermont public servant. United States Marshal Christian Hansen, Jr., has retired from that post after more than 20 years of service. September 29, 1994, was his last day on that job.

We all know that there is a lot of cynicism about our Government these days. I think there would be far less if people knew the Chris Hansens of the Government better, a man who quietly, without fanfare, performed a service vital to our Government with the highest degree of professionalism.

Chris Hansen was first appointed United States Marshal for the District of Vermont in 1969, and reappointed in 1973. He served continuously in that capacity until 1977 when he resigned in connection with the change in Presidential administration. In 1982, when the administration changed once again, Chris was called upon to return to the post he had previously manned so well. He has remained in the office until his retirement.

In addition to his duties as Vermont's U.S. Marshal, Chris has been active in Republican politics within the State. At various times he has been: an elected State representative for Windham 4–3; an elected town meeting representative in Brattleboro; an elected member of the Windham County Republican Committee; and an appointed member of the Brattleboro Republican Town Committee.

The one unfortunate aspect of Chris's life is that he suffers from an affliction common to many of us in New England, a fondness for the Boston Red Sox. I hope he will have more time in the years ahead to follow their ups and downs, and I hope for all of our sakes there will be more of the former than the latter.

Chris is also a family man. I am certain that his wife Nancy, his three children Susan, Mark, and Cindy, and his four grandchildren Kristin, Katherine, Sara, and Kevin are duly proud of his achievement over all of his years of service. With his retirement, they will be able to reclaim more of his time and attention, but in that regard, certainly their gain is our loss.

CONFIRMATION OF FRED I. PARKER TO THE U.S. COURT OF APPEALS

Mr. JEFFORDS. Mr. President, last night, at 11:55 p.m., a very important event for Vermont took place on the Senate floor. Fred I. Parker was confirmed by the Senate to sit on the U.S. Court of Appeals, 2d Circuit.

Fred Parker is not only a distinguished Federal district judge and an exceptional attorney, but he is also one of the nicest people I have ever had the pleasure to know.

My friendship with Judge Parker stems from the first day I met him. Although I had not met Fred Parker before asking him to come and interview for the position as my deputy attorney general for the State of Vermont, I had heard exceptional things about him. When one is looking for your top assistant, it should be done carefully and after deep thought. However, after a brief meeting, I had no question that this was the man for the job and hired him on the spot.

Unfortunately, too few men and women are willing to dedicate a substantial part of their life to public service. Fred Parker is one of those. After being with me and providing exceptional service, including difficult victories in the U.S. Supreme Court and beating the State's top defense lawyer in a difficult murder case, he returned to private practice.

After over 20 years in private practice, Fred was again called to public service. I recommended him to President Bush to serve as Federal district judge in February 1989. After 18 months of a contentious debate over the prerogative of Senators to have their recommendation respected by the administration, Fred Parker was confirmed as a Federal district judge in Vermont. The long and arduous process forced me to exercise the often criticized filibuster. In this case, it clearly resulted in the public good being served, notwithstanding a rather hostile White House and a few very angry Senators.

What was quite remarkable about Judge Parker was that after over 20 years as one of Vermont's most successful private attorneys, an exhaustive investigative process determined that he had managed to remain one of the most respected and admired people in the legal profession. His friends, colleagues, and adversaries alike had the kind of praise for Fred Parker that is very seldom heard about anyone, but to my mind was richly deserved.

I want to share with Judge Parker's wife Barbie, their sons Hawkeye and Bruce, and the hundreds of Vermonters who know Fred Parker, to say how very, very proud we are that one of our own will be serving in such a prestigious position. Judge Parker will serve the United States of America with distinction.

FALSE CLAIMS ACT

Mr. DECONCINI. Mr. President, an amendment to the False Claims Act [FCA] is needed to clarify that it does not apply to claims of violations of the Agricultural Marketing Agreement Act [AMAA].

The FCA allows private parties to sue to collect moneys owed to the Government under existing contracts or lease arrangements or obtained from the Government under false pretenses. Private persons can bring suit in the name of the Government and recover treble damages. The FCA was meant to address "fraud against the Government." Nothing in the history of the FCA supports that it should be used to collect fines or penalties that have neither been sought nor imposed by the Federal Government.

The AMAA regulates the flow of citrus onto the market through the issuance of marketing orders. Violations of the AMAA are subject to civil fines through the forfeiture provisions of the act.

FCA actions were brought by opponents of marketing orders based on the theory that if the marketing orders were violated, fines would be owed to the Government. The Justice Department argued that these so-called reverse hypothetical false claim cases should be dismissed because a violation of a marketing order results in a penalty and does not cause financial loss to the Government. However, Federal district court judges in California ruled that Congress was silent and therefore left the door open for these types of claims.

Recently, the Department of Agriculture has dropped all claims in the citrus industry for violations of the AMAA. It is expected that the FCA claims will also be dismissed. However, the threat remains that these types of cases could be brought. Therefore, I have been supportive of an amendment to the FCA to clarify that the FCA does not apply to claims of violations of the AMAA. Marketing order violations should be prosecuted through the process established by the AMAA, not by extending coverage of the FCA.

Last Congress, during consideration in the House of Representatives of legislation to amend the FCA—H.R. 4563, language was included to exclude possible violations of the AMAA from the FCA. The committee report stated that they did not believe that Congress intended the False Claims Act to support actions under the AMAA and thus the bill specifically excluded such actions from coverage.

Senator GRASSLEY has led the effort in the Senate to correct some outstanding problems in the FCA, unrelated to the marketing order issue. His legislation, S. 841, unfortunately was never reported from the Senate Judiciary Committee. I was confident that the marketing order could be addressed at that time.

Efforts were made to try and solve this one problem with the FCA during the final hours of this Congress. However, objections were raised to any FCA amendments for fear that the entire issue would be reopened. Those objections were unrelated to the substance of the problem of the application of the FCA to AMAA violations. I have discussed this issue a number of times with Senator HEFLIN, chairman of the Subcommittee on Courts and Administrative Practice. I believe he and other members of the Judiciary Committee are supportive. Although I will not be around next year to work on this issue, I am hopeful that this problem can be solved once and for all during the 104th Congress.

SECTION 115 MEDICAID DEMONSTRATION PROGRAM WAIVER

Mr. GRAHAM. Mr. President, I rise today to express great concern about a potential problem that the State of Florida is having in obtaining full approval of its section 1115 Medicaid demonstration program waiver from the Department of Health and Human Services. On February 9, 1994, Florida submitted its Florida Health Security waiver to the Department of Health and Human Services. This Medicaid waiver would, if fully approved and enacted, provide 1.1 million additional Floridians with insurance coverage up to 250 percent of the poverty level. The program's participants would buy a standard benefit offered through a Community Health Purchasing Alliance and receive, according to their income, a premium discount to make the package affordable.

On September 14, 1994, after 7 months of negotiations, HHS granted a conditional waiver approval to allow Florida to implement the State's proposed reforms. By granting this important request, Florida would be allowed to use Medicaid funds to provide insurance premium discounts to working, uninsured Floridians traditionally ineligible for Medicaid.

Mr. President, there are many positive aspects of Florida Health Security. First and foremost, let me reemphasize that this waiver program would allow an additional 1.1 million Floridians to obtain health insurance coverage—thereby reducing the State's uninsured rate by over 40 percent. Moreover, of the 2.7 million Floridians presently without health insurance, 1 million are children. With the plan's requirement that 80 percent of the enrollment spaces be reserved for lower-income, uninsured families, children could disproportionately benefit from this initiative.

In addition, this waiver would eliminate the all-or-none approach of Medicaid by creating a sliding scale of contributions for those above the Medicaid poverty threshold and up to 250 percent

of poverty. At present, Medicaid's all-or-none approach creates the perverse incentive of encouraging people to remain unemployed and in poverty in order to continue to have health care coverage. Florida's approach would clearly help get people off welfare and be a much fairer system that what we have now.

The waiver also allows Florida and the Federal Government better control over the costs of the Medicaid program. Since 1982, Florida has had its Medicaid program increase from $1 to $7 billion. In the years from 1990 through 1993, Florida saw its Medicaid budget expand by 30 percent, 26 percent and 19 percent, respectively. Instead, over the 5-year period of Florida's waiver program, costs would be controlled and managed through the increased use of case management and managed care in the private sector. Through these savings, the State and the Federal Government will be able to provide coverage to over 1 million previously uninsured Floridians without spending additional revenue.

In short, Florida's Health Secretary program would expand access and health coverage without raising taxes, control costs, and break the categorical link between health care and welfare.

To implement this program, Florida Health Security will utilize the already successfully established Community Health Purchasing Alliances, which have reduced premiums for participating small businesses by 10-50 percent this year. As a result of this, private health plans will be integrally involved in this Florida Health Security program.

In fact, under Florida Health Security, accountable health partnerships would submit bids on premium rates for the standard benefit plan, with a portion of the premium to be paid by Medicaid. Insurance agents would be directly involved in the process due to the fact that they are an integral part of any system relying in whole or in part on private health insurance coverage.

Unfortunately, HHS and the Department of Justice have expressed concern that payments to insurance agents by accountable health plans might violate the Social Security Anti-Kickback Statute. Clearly, the 1977 Anti-Kickback Statute was not intended or was even contemplated to apply to programs like Florida's demonstration project.

For example, I understand the Family Support Act of 1988 creates a Medicaid wrap-around option allowing States to use Medicaid funds to pay a family's expenses for premiums, deductibles, and coinsurance for health care coverage offered by an employer.

Moreover, as the State argued while pursuing this waiver, since insurance companies use insurance agents, the purchase of insurance and the payment of premiums of necessity results in the payment of a commission to an insurance agent. This is also true when Medicaid funds health maintenance organizations [HMO's], the Medicare Risk Program and various State plans relating to areas such as the enrollment of Medicaid eligibles in group health plans.

Through the section 1115 Medicaid demonstration project waiver process, Florida is attempting to, for the first time, use Medicaid funds to purchase private health insurance on a wide scale. However, by mistakenly applying the Anti-Kickback statute beyond its intended scope to insurance agent commissions, the Departments of Justice and Health and Human Service would effectively kill the demonstration. As noted beyond, insurance agents are an integral part of the existing health insurance system.

For example, it is estimated that Medicaid only enrolls one of every two potential eligibles. The intent of Florida waiver plan is to expand access and health insurance coverage to an additional 1.1 million Floridians through the private health insurance system. In order to maximize the 42,000 insurance agents already in place in Florida to market those plans rather than creating a whole new State bureaucracy that would be much less effective at reaching potential eligibles.

I am deeply concerned that the Department of Health and Human Services's decision would effectively preclude 1.1 million uninsured Floridians from receiving health insurance coverage next year. If that is the case, I would appreciate any help I could get. Would Senator ROCKEFELLER be willing to offer the people of Florida help in resolving that dispute?

Mr. ROCKEFELLER. My friend from Florida, Senator GRAHAM, it is indeed my understanding that the State of Florida has been a leader on major initiatives to expand health care coverage and lower health care costs. I believe that we will be able to learn a lot from Florida's experiences, and may, at some point, be able to apply those lessons at the national level. Because of Governor Chiles' leadership and commitment at the State level and your own long-term interest on health issues, small businesses in Florida are benefiting from health reforms already implemented.

I am hopeful that a mutually agreeable arrangement can be worked out with the Department of Health and Human Services and the Department of Justice and your own home State of Florida on the issue of payments to insurance agents. I will do what I can to facilitate a successful resolution of this matter.

RECENT DEVELOPMENTS IN NORTHERN IRELAND

Mr. BIDEN. Mr. President, at the end of August, the Provisional Irish Republican Army [IRA]—a terrorist organization that for the past two and one-half decades has waged a bloody war to end what it regards as the British occupation of Northern Ireland—declared a "complete cessation of military operations." The IRA also signaled its commitment to a negotiated settlement by stating that "an opportunity to secure a just and lasting settlement has been created" and declaring that a solution to the Northern Ireland conflict will "only be found as a result of inclusive negotiations."

This statement, combined with active and creative diplomatic efforts by the Irish and British Governments, has dramatically altered the political landscape in Northern Ireland—and provided the most opportune moment for bringing peace to that beautiful but troubled area in the northeast of the Island of Ireland.

Indeed, the IRA cease-fire has catalyzed a chain of events that has given momentum to the peace process. It now seems apparent, assuming the IRA cease-fire holds, that the British Government will soon begin a dialog with Sinn Fein, the political party that acts as the political arm of the IRA. These discussions will represent the first step in a series of talks involving the Irish and British Governments and the political parties in Northern Ireland.

There are many people responsible for the changed circumstances in Northern Ireland. Irish Prime Minister Albert Reynolds and British Prime Minister John Major deserve significant credit for moving the process forward with the Joint Declaration that the two governments issued last December. John Hume, leader of the Social Democratic and Labor Party [SDLP] of Northern Ireland—the main Nationalist Part in the six counties—more than any other individual, has been the intellectual architect of most major political initiatives in Northern Ireland for the past two decades. The Ulster Unionist Party, the leading unionist political party in Northern Ireland, is to be commended for not taking a rejectionist path. I also commend Gerry Adams, the leader of Sinn Fein, which acts as the political arm of the IRA, for taking a first step toward peace.

Finally, I applaud President Clinton for the role he and his administration have played in encouraging the Northern Ireland peace process. His decision last winter to grant Mr. Adams a visa to visit the United States, in the face of strong opposition by the British Government, was an important milestone in moving the IRA toward its cease-fire declaration.

Mr. President, the path toward a permanent resolution of Northern Ireland's Troubles—as the conflict there

is euphemistically called—remains fraught with obstacles; 25 years of violence have left a bitter legacy of division and distrust, hatred and fear between the nationalist and unionist communities in Northern Ireland. During these two and one-half decades, over 3,000 people have lost their lives; over 30,000 have been injured. Because Northern Ireland is a relatively small community of just 1.5 million people, there are few that the war has not touched directly. Indeed, nearly every person in Northern Ireland knows someone—a family member, a friend, a coworker—who has been killed or injured as a result of the violence. The economic cost of this tragedy is staggering. But the human cost—in lost life, lost limbs, broken hearts, and broken dreams—is incalculable. In a very real sense, the fabric of the Northern Irish society has been torn asunder. Quite obviously, reconciliation between the two deeply divided communities in Northern Ireland will not come in a day—even if a political agreement can be reached.

But it is not dramatic overstatement to suggest that this is the most hopeful moment in the 25 years of the Troubles. At this critical point, the United States must do all that it can to assist the quest for peace. President Clinton has demonstrated his personal commitment to aiding the peace process. So, too, Congress should stand ready to do all it can at this critical moment to support the effort to bring a permanent end to the bloody war in Northern Ireland.

TRIBUTE TO DENNIS DECONCINI

Mr. SASSER. Mr. President, I rise today to honor the senior Senator from Arizona, my distinguished colleague, DENNIS DECONCINI, on the occasion of his retirement from the U.S. Senate. Senator DECONCINI and I began our Senate careers in the freshman class of 1976, and it has been a pleasure to work with him for the last 18 years, most recently as members of the Appropriations Committee. The Senate will truly miss DENNIS DECONCINI in the years ahead.

Throughout his service in the Senate, Senator DECONCINI has been a thoughtful and dedicated legislator. Although his decisions have not always been popular, he has worked to uphold the interests of his constituents and vote his conscience.

An issue of special concern for Senator DECONCINI has been control of the spiralling drug problem in the United States and worldwide. Before he came to the Senate, he served as the administrator of the Arizona Drug Control District, where he witnessed the tragedy of growing drug traffic from Latin America into the Western part of the United States. He resolved to combat this problem, and, as vice-chairman of the Senate drug enforcement caucus, he spearheaded an effort to pressure foreign governments to fight the drug problems in their own countries and prevent narcotics from entering the United States. As chairman of the Treasury-Postal Appropriations Subcommittee, DENNIS DECONCINI included $1 billion for drug interdiction in the fiscal year 1992 spending bill.

I am sorry to see this hard-working Senator retire; however, I feel sure he will utilize his many talents in another worthwhile career. His willingness to work with his colleagues to pass important legislation in this era of gridlock has been refreshing, and there are many in Congress who could learn from his example. I wish Senator DECONCINI the best of luck in his future endeavors.

TRIBUTE TO BOB AND MARIE FEIDLER

Mr. DORGAN. Mr. President, two remarkable constituents of mine who embody the highest values of citizenship, professionalism and family retired from their active practice of law recently. Between them, Bob and Marie Feidler of Grand Forks, have been members of the North Dakota bar for over 90 years and have been in the work force for over 115 years. They've certainly earned a well-deserved break.

Marie has been a North Dakotan for over 85 years while Bob is a comparative newcomer, coming to North Dakota in the fall of 1945. Throughout their adult lives they have been people of achievement and compassion who have left their State and community far better for their efforts.

In addition to her legal career, Marie was also an educator for over 35 years of her professional life. She taught in a variety of levels of schools ranging from junior high to the University of North Dakota. Her first love, however, was probably the years she spent teaching Latin at the high school level where she exposed many of the brightest young minds to the basics of a classical education. She was herself a Phi Beta Kappa graduate of the University of North Dakota and, as one of the first women graduates of the law school, earned her law degree with distinction. She was president of organizations ranging from the Quota Club, to the Grand Forks PTA, to the county bar association and active in countless other groups. Her book "Retrospectives," is an especially keen insight into the early days of teaching and education in North Dakota.

Bob served in the Army Air Corps during World War II before coming to North Dakota. In the years that followed, his strong sense of duty and patriotism resulted in his becoming president of virtually every veterans service organization including the VFW, American Legions, AMVETS and Forty and Eight. He received the highest honor from the Hunkpapa tribe of the Sioux Nation when he was inducted into the tribe and given the honorary name of Chief Rain-in-the-Face, a Sioux leader of the 19th century, following his successful 10-year tenure as States Attorney in a county embracing the Standing Rock Indian Reservation. He was also a close friend and adviser to political leaders in the State including our former colleagues Senators Langer, Burdick, and Young. He also found the time to pay many visits to hospitalized veterans, sustain American Legion baseball, and at the same time provide many hours of donated legal services to those most in need.

Our culture is often overly critical of the legal and teaching professions, but this husband and wife team are fine examples of the competence, civility, and compassion that two truly professional people can bring to our lives. They have made a difference and we wish them well in retirement.

H.R. 5248, THE COMPREHENSIVE ONE CALL NOTIFICATION ACT

Mr. EXON. Mr. President, I am very pleased to support H.R. 5248. This legislation wraps three important bills into one package.

This legislation includes the compromise one call substitute which I was pleased to offer in the Senate Commerce Committee to the Bradley-Lautenburg Comprehensive One Call Act, the Danforth-Exon high risk drivers program which was added to the rail safety and the Senate one call bills and the Dorgan vision waiver program for safe drivers with vision impairments. The House added one technical amendment to this legislation relating to a Pennsylvania rail project.

This legislation is a prime example of what can happen when Democrats and Republicans, House and Senate Members put partisanship and institutional rivalry aside and work together to save lives. This bill combined with the Swift Rail Act round out one of the most aggressive and important safety agendas in history.

Mr. President, this package of bills will make America's highways, byways, cities, and towns safer from threats seen and unseen. I strongly encourage my colleagues to enact this important bill.

I want to also acknowledge my colleagues in the House of Representatives for the humble efforts to overcome yesterday's Senate floor gridlock. These cooperative efforts will pay safety dividends for all Americans.

THE SWIFT RAIL INVESTMENT ACT

Mr. EXON. Mr. President, I am pleased to support H.R. 4867. This legislation represents a careful compromise

of several rail safety and investment issues which my colleagues and I have introduced.

This landmark legislation combines compromise versions of two historic Senate rail bills, the high speed rail bill known as S. 839 in the Senate and the Rail Safety Act known as S. 2132 in the Senate.

The high speed rail keeps the vision of fast, safe, efficient trains moving people and goods across the landscape of America. Just as billows of steam and ribbons of steel defined the railroad's glorious past, sleek, fast energy efficient trains will define railroad's bright future.

I was pleased to offer the Senate version of this bill. It represents a realistic and fiscally prudent path to high speed rail development.

Mr. President, I am especially proud that this legislation includes the rail safety bill I introduced on behalf of the administration, the lion's share of railroad crossing initiatives Senator DANFORTH and I incorporated into the Senate rail safety bill and several very important safety initiatives including a requirement that the Department of Transportation develop safety standards for rail passenger cars.

These provisions make the Swift Rail Act and its Senate-passed companion, S. 2132, one of the most important pieces of safety legislation in the rail sector and the first comprehensive effort to reduce the number of deaths, accidents, and injuries at grade crossings and the prevention of trespass and vandalism on railroad property.

Finally, I am most happy to enthusiastically endorse the name of this legislation. It is a tribute to my good friend and colleague, Congressman AL SWIFT. Chairman SWIFT has been a great partner on all matters affecting railroads. His retirement from Congress will be felt by all Americans. AL SWIFT has been a strong advocate for rail safety, Amtrak, and local rail freight assistance. This small tribute will remind us all of what a great job he has done during his congressional tenure. I wish my friend well.

I urge my colleagues to pass this important piece of rail investment and rail safety legislation.

TRIBUTE TO JOHN LUTHER STEVENS, JR.

Mr. DOLE. Mr. President, the country, the State of Delaware, and the political process have lost a valued citizen and contributor. On April 30, 1994, John Luther Stevens, Jr., of Dover, DE, died of cancer at the age of 47.

John Stevens was a native of the State of Delaware and a resident of Dover, DE, at the time of his death. From 1980 to 1993, he lived in the Washington, DC, area.

Mr. Stevens was active in Republican politics. In 1988, he was senior consultant to the Dole for President campaign. In the mid-1970's he was executive director and finance director of the Delaware Republican State Committee. In 1976, he was credited with winning the State of New Jersey for President Ford. From there, he went to the Republican National Committee where he served as a regional political director. His responsibilities included coordination of New York and New Jersey campaign strategies for the 1980 Presidential campaign of Ronald Reagan. Mr. Stevens was also instrumental in the development of organizational strategy for the 1984 reelection campaign of President Reagan. During the 1980's, Mr. Stevens also served as executive director of the Republican Governor's Association, as a consultant to Secretary of Commerce Malcolm Baldrige, and as Director of Intergovernmental Affairs for Secretary of Labor, Bill Brock. He directed the participation of ethnic coalition groups at the 1992 Republican National Convention.

Until shortly before his death, Mr. Stevens was director of State relations for the International Council of Shopping Centers and also president and chief executive officer of Corporate Investors Development Co., a governmental affairs consulting company.

In addition to his professional endeavors, Mr. Stevens was an avid collector of antiques, a student of area history and geography, and the proud owner and restorer of a lovely Victorian home in Dover. He also was the founder and director of the Great Eastern Invitational Chili Cook-off which he hosted each year at the Delaware State Fair. He was a well-known and respected judge at championship chili cook-offs throughout the country.

Perhaps above all, John Stevens was a devoted husband, father, son, and friend. His wife Anne Fleig Stevens, his sons John Luther "Sean" Stevens III, Shannon Austin Stevens, and William Sumner Brock Stevens, his mother, Nellie Austin Stevens, and his many friends and admirers will miss him greatly.

TRIBUTE TO GEORGE MITCHELL

Mr. DASCHLE. Mr. President, this may be the final day of the regular schedule of the second session of the 103d Congress. Except for the short lame duck session to be held at the end of next month, it is also one of the last days of the remarkable leadership provided to the U.S. Senate by a very special man, GEORGE MITCHELL.

This institution has never been served more ably than during the past 6 years. Our majority leader has demonstrated skill which has been rarely seen in our Nation's recent history. His intellect, his patience, his diplomatic skills, and his great affection for the Senate have served the Members of the Senate in an exceptional manner.

He has also been a special friend to this Senator. My admiration for the majority leader began to grow long before he attained this position. I came to know him in 1986, during his tenure as chairman of the Democratic Senate Campaign Committee, as I was a candidate for the Senate that year. GEORGE MITCHELL was an extraordinary chairman. Under his leadership, 11 new Democratic Senators took their seats in January 1987. It is widely recognized that he was directly responsible for our success. His dedicated efforts brought about a return of the Democratic majority in the U.S. Senate.

GEORGE MITCHELL has always been willing to accept additional assignments. Who can forget the memorable role which he played on the Iran-Contra investigative committee? His probing questions, his remarkable response to Oliver North, and the professionalism which he demonstrated, served the Senate exceedingly well and made us all very proud.

The Senator from Maine has made his greatest contribution, however, as our leader. After 6 years, this country owes him a significant debt of gratitude. His leadership brought passage of landmark legislation affecting health, the environment, the economy, trade, and education. Indeed, his has been an extraordinarily productive tenure as leader.

No one has given this Senator more of an opportunity to contribute than has our leader. I have expressed my gratitude to him privately. But I also wish to do it publicly.

Thank you, GEORGE MITCHELL. Your willingness to appoint me as co-chair of the Democratic Policy Committee has created opportunities and challenges which are rare for any Senator. The past years of service with you have been as meaningful and satisfying as any in my lifetime.

The Senate will miss him. I will miss his good nature, his sense of humor, and the daily demonstration of his remarkable dedication to his work and his country. They say that life has no blessing like that of a good friend. That is certainly true. In the past decade, my colleagues and I have been richly blessed with the friendship and the leadership of GEORGE MITCHELL.

We wish him well in all that he does in the months and years ahead. May he enjoy good health and much success. He leaves this place with the love and gratitude of the Senate and of his country.

TRIBUTE TO DR. ROBERT KRASNER

Mr. DASCHLE. Mr. President, as we end this session, we do so with the realization that we are losing a very special person who fills an extraordinary role. Dr. Robert Krasner, our popular

and extraordinarily competent Capitol physician, will soon depart. I know that I speak for all of my colleagues in acknowledging how much he will be missed.

In the years in which he has served in the Capitol physician's office, Dr. Krasner has become the personal physician to virtually each of us. I use the word "personal" in more than the medical sense. He has been a mentor, a friend, a valuable resource, in addition to being the best physician for which anyone could ask.

In what must be a position which brings great pressures and expectations, Dr. Krasner has performed with extraordinary professionalism. His service to the Congress and to the country has brought honor to himself and to his profession. We simply could not have been better served. We are fortunate to have been blessed by his friendship and his service.

As he departs, we wish him, his wife, Leslie, his children Justin and Jessica the very best. May they continue to enjoy good health, much happiness, and great success. They deserve all of this and more. They will be in our thoughts as they begin their new challenges.

INTERSTATE DAIRY COMPACT

Mr. KOHL. Mr. President, last night, Senators LEAHY, JEFFORDS, and MITCHELL spoke on the Senate floor regarding the Northeast Interstate Dairy Compact and their regret that action was not taken on the compact in the 103d Congress.

I would also like to say a few words about the compact.

It is difficult for me to oppose my friends from the Northeast in their efforts to help the dairy farmers of their region. But it is on behalf of the dairy farmers of my State, and farmers in other States outside the Northeast region, that I felt that I must oppose this measure. Not only because I believe the compact would have a negative effect on the dairy farmers of regions outside the Northeast but also because I believe it to be an inappropriate method of addressing the problems of the dairy industry, which are national in nature.

The Northeast Interstate Dairy Compact is an effort by six Northeastern States to require artificially increased milk prices for the farmers in those States exclusively, and to effectively prevent other regions from competing in that market.

The sponsors of this measure claim that the Northeast is an island unto itself and that this compact will not affect any other region. I believe this claim ignores the complexities of dairy markets, which are national in nature.

To predict the exact effects of this compact on other regions is nearly impossible. But to assume that there will be none is to turn a blind eye to the history of agricultural policy.

My region of the country, the upper Midwest, has learned this lesson all too well. We have seen our dairy industry become the victim of unforeseen market distortions caused by an inequitable and outmoded milk marketing order system.

Restoring regional equity to dairy policy is the most pressing Federal policy need facing the farmers of my State. But the compact proposed by the Northeastern States takes us in entirely the opposite direction, toward balkanization of our dairy industry, and away from national unity.

It has long been my belief that in the absence of true reform of the milk marketing order system, the type of regional pricing policy proposed in the Northeast Dairy Compact is detrimental to the Dairy farmers of my region and the Nation as a whole.

It is my hope that next year we will be able to achieve comprehensive reform to our dairy pricing policies, to address the problems facing dairy farmers of all regions. And I look forward to working with my friends from the Northeast to that end.

SIGNING INTO LAW OF THE FEDERAL ACQUISITION STREAMLINING ACT

Mr. ROTH. Mr. President, the Federal Acquisition Streamlining Act is scheduled to be signed into law on Thursday, October 13. If the administration follows through on implementation, the impact on the Government acquisition system will be revolutionary. The cost savings alone to the taxpayers will be in the tens of billions of dollars.

Mr. President, as I have stated many times in the past, today's Federal buying system is not in good shape. Multibillion-dollar cost overruns on acquisition programs that are years behind schedule now are standard practice. Technology that needs to be brought to the battlefield in a timely manner is, instead, mired in a burdensome, convoluted process that delivers technology when it is outdated. For example, it takes 16 years for a Defense Department program manager to follow the more than 840 steps needed to get a weapon system concept into production. Meanwhile, that same technology is delivered by industry four times faster and many times cheaper. While industry is shedding its fat, Government buying organizations remain huge bureaucracies with about 20 layers of management that studies show has little if any value. According to the General Accounting Office, this all results in a buying system that costs the taxpayer billions in waste, fraud, and abuse.

The GAO reported that program cost increases on the order of 20 to 40 percent are common. Even common sense actions to save a few hundred bucks or get a better deal for the taxpayer are beyond the buying bureaucracy. Nothing exemplifies this inefficiency better than what recently happened to a Delaware box manufacturer named Allied Container Corp., Delaware. On July 11, Allied Container delivered 6,000 boxes to a prime manufacturer to fulfill an urgent Government need for spare parts. That same day, those 6,000 boxes worth $1,800 were returned to Allied Container simply because a Government inspector determined that the boxes did not meet the specification. The Government said they would take the boxes if the prime contractor could wait 6 weeks and spend $500 to get a waiver approved. Ironically, Allied Container gave the Government a slightly better quality box at the lower grade price because it has that material on hand and the requirement was urgent. By using what they had in stock, they saved the cost of buying and storing material, and they were willing to pass that to the Government. But, in the end, it simply didn't matter and the box manufacturer was forced to produce another 6,000 of inferior quality boxes to satisfy the Government buyers. This all occurred after Secretary Perry directed the Buying System to stop doing such stupid things.

Mr. President, the bill that the Congress has sent to the President offers needed revamping of the Federal buying system. It will work only if the administration follows through on its implementation. The bill requires that the government's needs be met by using available commercial technology rather than creating that technology to meet a unique need. The situation that I spoke of earlier involving the box manufacturer should not be repeated. The Government should be able to do something that's obviously in its interest without increasing its cost 30 percent and the schedule 600 percent. When you consider that the buying system makes millions of transactions annually, the savings to the American taxpayer easily will go into the billions of dollars.

The bill also should resolve many of the chronic acquisition management problems plaguing the buying system today, if the administration follows thorough on its implementation. It makes both the acquisition work force and Government contractors accountable for their work. It establishes top-level measures of how well agencies are managing their acquisition programs and requires that they terminate poorly performing programs. It requires that the Defense Department reduce by 50 percent the time it takes to field new weapons. Procurement horror stories should no longer capriciously take their toll on the American taxpayer. The bill requires all Federal agencies to publicly identify bad programs and put to kill those that are no longer worthwhile.

With so much at stake, I call upon the President of the United States to sign into law the Federal Acquisition Streamlining Act as planned next Thursday. I have worked for more than a decade to fix the problems in the Federal buying system, and have worked long and hard with my colleagues over the past 2 years to produce this legislation. Even so, the job is only half done, and now it's up to the administration to finish it.

Mr. President, the buying organizations also must be streamlined as the acquisition process is streamlined. Past attempts to streamline have been fought by the bureaucracy. For example, when the Goldwater-Nichols bill enacted the Packard Commission proposal to streamline the buying bureaucracy to three layers and a handful of commands, the Defense Department added a second multi-layer bureaucracy to the old structure. As a result, the American taxpayer is now paying for two bureaucracies in each of the three military departments.

Mr. President, make no mistake about it. Bureaucracies are inherently unable to reform themselves. I intend to watch closely how the administration implements this law, particularly when it comes time to remove many of the 20 layers of the buying bureaucracy. If necessary, I will push for hearings and pursue additional reforms.

SENATOR RIEGLE'S FIRE IN THE BELLY

Mr. SIMON. Mr. President, the people of Michigan and of the Nation owe a debt of gratitude to a colleague who soon will retire from this body, the senior Senator from Michigan, Senator DON RIEGLE.

Few have been as faithful a champion as DON RIEGLE has been for working families, for the poor, and the powerless. This empathy for the real problems of real people has been one of the hallmarks of DON RIEGLE's service in the Senate and in the House of Representatives. An advocate for housing for the poor said this about DON RIEGLE: "The man has real fire in his belly. There aren't a lot of members who genuinely relate to working-class people."

I saw this quality in DON RIEGLE as he emerged as one of the real stalwarts in the fight for true health care reform. The measure he brought forward to extend health insurance to children and pregnant women will remain on the agenda until we achieve real reform.

More recently, he launched what began as a lonely crusade on behalf of Gulf war veterans who face health problems, and his work is now bringing these veterans closer to real relief.

Over the years, DON RIEGLE has tackled—or the Senate has asked him to handle—some of the most difficult assignments the Senate has to offer. The savings and loan mess fell directly on his shoulders soon after he assumed the chairmanship of the Banking Committee. DON RIEGLE did not duck the crisis but took charge of solving it in what unquestionably was the Senate's toughest and most unpleasant job at the time. On a bipartisan basis, he hammered out a solution, working closely with President Bush and the members of his committee.

This year the Senate turned to DON RIEGLE and the Banking Committee to handle another demanding task, the Whitewater hearings. Few Senate committee chairs could have pulled together such a thorough and bipartisan inquiry under such tight deadlines and extreme pressure. William Safire called the Riegle hearings "a credit to the Senate," and they were.

Years earlier DON RIEGLE did a masterful job, against great odds and in the face of sharp skepticism, in fighting to enact the loan guarantee program that saved Chrysler. As we all know, Chrysler not only survived, but has thrived. The company repaid its loans to the penny—and repaid them early—and tens of thousands of jobs were saved.

Many of the families that depend on these jobs know what DON RIEGLE did to help them; many more probably do not. Most Americans may not know that our economy is stronger today because DON RIEGLE'S legislation has helped make the U.S. banking industry the best capitalized in the world. The Senate will miss DON RIEGLE's skills and advocacy and the fire in his belly. But DON RIEGLE will be able to leave the Senate knowing that his work has improved the lives of millions of his fellow Americans.

REGRADING THE AFRICAN-AMERICAN MUSEUM

Mr. MCCAIN. Mr. President, I am extremely disappointed that the Senate was unable to overcome the objections of one Member and pass what we all know is a simple, non-controversial bill to authorize the Smithsonian to establish a National African-American Museum.

We were presented with an opportunity to pass a bill which would recognize the achievements of African-Americans, many of whom have faced enormous obstacles such as enslavement and segregation, and made vast contributions to our Nation's culture, literature, politics, art, history and many other areas of our society.

The facts on this matter are clear the bill is not controversial. Similar legislation has been reported by the rules committee twice, passed the Senate by unanimous consent once and the House once. Throughout this process there has been little or no opposition to the bill. It has 30 cosponsors and enjoys bipartisan support.

In most instances a bill of this nature would pass the Senate without any notice like it did in the 102d Congress when it passed by unanimous consent. Unfortunately, this year is much different. This year the bill is being held because of expressed concerns regarding the cost of the museum.

I do not find these concerns to be well founded. It is the intention of the sponsors of the legislation, its supporters outside of Congress and the Smithsonian to seek private donations to fund as much of the museum's activities as possible. In fact, the legislation restricts the use of the appropriated funds to operation and maintenance only. Additionally, the authorizing committee will also be able to monitor the activities of the museum and take further action if costs truly become a concern. The fact is the bill to authorize the museum is fiscally responsible.

Efforts to restrict all Federal funds for this museum are inappropriate. No museum operated by the Smithsonian is entirely funded by private dollars. Requiring this museum to be operated in this manner would be a double standard and, I am sure that is not the message that this body wants to send.

Mr. President, this is not a complex or controversial matter. All we are attempting to do authorize a museum that will recognize and celebrate the contributions of vital and important part of the melting pot that is America. I say to my colleagues if we can not do something as simple as this how will we resolve the more difficult issues that face this Nation.

I know that the Senator from Illinois will reintroduce this bill again next year and I intend to cosponsor it again. I only hope that next year we will finally be successful.

Mr. GRAHAM. Mr. President, on Wednesday September 28, 1994, one of the most skillful and effective lawmakers to serve in this century passed away. Robert Lee Fulton Sikes, the distinguished Congressman who served the people of the Florida Panhandle in the House of Representatives for 38 years, lost his battle with Alzheimer's disease at the age of 88.

Bob was victorious in most of the battles he waged. His record as a Congressman from 1940 to 1978 was tremendously successful for the Nation and Florida, a fact that won him admiration and praise from colleagues and constituents. He was especially distinguished by his service as chairman of the Military Construction Appropriations Subcommittee. In this capacity, he was a stalwart for a strong national defense during 4 decades of unprecedented challenge to our national security.

I had the privilege of knowing Bob Sikes for most of my life. My mother, who grew up in De Funiak Springs, knew the Sikes family throughout her

youth. She introduced me to Congressman Sikes when I was a child. In 1959, when Bob was a distinguished Member of the House of Representatives and I was a college intern in Washington, he was very gracious to me. He took me under his protective wing, and I learned a great deal from him.

Our friendship matured while I served in Florida State government. I regularly drew upon his wisdom, influence and advice to advance issues that were important to our State.

Bob Sikes represented his constituents with intensity, and maintained a high standard of service to those he represented. Bob Sikes will be missed as a public official, as a leader of our State, and as a friend.

HOSTAGES AND SECRETS: A MODERN FARCE

Mr. MOYNIHAN. Mr. President, each year the Information Security Oversight Office keeps a tally of the number of secrets the United States Government classifies. Last year they reported the creation of 6,408,688 secrets. Absurd. This strikes at the heart of our republic. As James Madison once wrote:

> A popular Government without popular information or the means of acquiring it, is but a Prologue to a Farce of a Tragedy or perhaps both. Knowledge will forever govern ignorance, and a people who mean to be their own Governors, must arm themselves with the power knowledge gives.

Let me relate a recent "Farce" of the kind which Madison foresaw.

Terry Anderson, the Associated Press correspondent who was held hostage for 7 years in Lebanon, is now writing a book about his ordeal. For almost 1,000 days during the course of his captivity I kept the Senate apprised of his situation by making daily statements in the RECORD. This also served to signal those responsible for Terry Anderson's captivity that we would not forget his plight.

In order to complete the work on his book, Mr. Anderson has made Freedom of Information Act [FOIA] requests to numerous Government agencies for documents they may have relating to his captivity. The response has been, to put it mildly, less than satisfactory. In some instances he has received copies of published articles he himself wrote prior to his kidnapping. Other documents he received were even less informative. Many had large sections which had been redacted. One response he got from the Air Force contained 36 blank pages.

Most of the documents withheld or censored, I believe, were done so on national security grounds. However, Mr. Anderson has been informed that some of the documents cannot be released because that would violate the privacy of the terrorists who held him captive all those years. This boggles the mind.

After battling for the release of these documents for several years, Terry Anderson has now chosen to take this matter to the courts. I cannot comment on the legal niceties of Mr. Anderson's FOIA case, which is pending in U.S. District Court here in Washington. I merely wish to convey my initial response to the news: there must be some mistake. Mr. Anderson has been told that he must obtain a notarized waiver from his captors so as not to invade their privacy, or he must go without vital pieces of the story of his captivity. The Freedom of Information Act presumes that Government documents are accessible to the people and that the burden is on the Government to justify the need for secrecy. Furthermore, the Privacy Act, which is separate but related to FOIA, does not apply to foreigners. Thus it is difficult to comprehend withholding documents from Terry Anderson on these grounds.

Certainly there are legitimate national security needs which would prevent release of certain documents. Unfortunately, considering the vast number of documents classified each year, and the experiences of citizens such as Terry Anderson, the public perception is that Government is, in general, over secretive.

I have introduced a bill to create a commission to look into this precise question. I am pleased to note that this was signed into law by the President last April. The Commission on Protecting and Reducing Government Secrecy will for a period of 2 years examine how documents are classified and make recommendations for improvements. It is my hope that the Secrecy Commission will help to alleviate some of the problems faced by the current system and restore the confidence of the American people.

I ask unanimous consent that an article from the Washington Post by Kathleen Day concerning the Terry Anderson FOIA request be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 3, 1994]

EX-HOSTAGE'S FOI QUEST TAKES A LUDICROUS TURN

(By Kathleen Day)

It could be a skit from "Saturday Night Live."

A U.S. citizen is taken hostage in the Middle East and held for nearly seven years. After his release, while researching a book on the experience, he asks his government for its files on his captors.

The government says sure, but there's a catch. He must first get written permission from the terrorists who held him so that their privacy is not invaded.

That's exactly what the Drug Enforcement Administration has told former hostage Terry Anderson he must do before it will release files under the Freedom in Information Act about 10 men who kept him prisoner or were involved in doing so. Seeking the documents, Anderson last month filed suit in the District against the DEA and 12 other agencies.

"Before DEA can begin processing your request," the agency, a unit of the Department of Justice, told Anderson in a 1992 letter, "it will be necessary for you to provide either proof of death or an original notarized authorization (privacy waiver) from that person."

Without that authorization, wrote John H. Phillips, chief of the DEA's Freedom of Information Section, "to confirm the existence of law enforcement records or information about another person is considered an unwarranted invasion of personal privacy."

Anderson argues instead that privacy rights under the Freedom of Information Act do not extend to foreigners living abroad.

"It would be funny if this weren't so serious a matter," said Anderson's attorney, Stuart H. Newberger of Crowell & Moring. "Terry Anderson wants to know what the government has on the people who kidnapped and tortured him for years.

DEA spokeswoman Sylvia Morin said last week she would call back if she could comment. She did not call back.

John Bates, chief of the civil division of the U.S. Attorney's office in the District, which is coordinating the case for the agencies being sued, said that he could not "comment specifically about DEA's response at this time."

But he said the responses of all the agencies will be reviewed in light of the Clinton administration's policy of releasing documents whenever the law permits.

Anderson has requested documents from 13 agencies, including the CIA, the State Department and the Department of Defense. Some have released some documents, though they are "so heavily censored as to be nearly useless," Anderson said in a written statement last week.

Others are mostly publicly available congressional correspondence and news articles, including stories Anderson wrote as a reporter for the Associated Press before his capture.

But each agency has refused to release hundreds of pages of relevant documents that Anderson believes would not damage national security by being released.

With the exception of the State Department and DEA, all invoke national security as the reason to deny Anderson's request for information, Newberger says.

That argument may or may not prove valid—Anderson thinks it won't. But even Newberger concedes it's not laughable.

In addition to national security, the State Department invoked violation of privacy; it also asked Anderson to obtain written permission before it will release documents. Only the DEA's denial of Anderson's request rests solely on the violation of privacy argument.

"When I got out, I was flying higher than a kite. I could have taken on the world and not even paused," Anderson told reporters three years ago, shortly after his release from captivity.

That, of course, was before he ran up against federal bureaucrats.

H.R. 967

Mr. LEAHY. Mr. President, this week the House passed legislation, H.R. 967, that would exempt pesticides used on fruits and vegetables from statutory requirements to supply current health and safety data to the Environmental

Protection Agency. The requirements to supply this data were first imposed in 1972 by the reregistration provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA]. But the agency was not supplied with funding or firm deadlines to complete reregistration until FIFRA was amended in 1988. After 20 years, a health and safety review of pesticides is finally underway.

Environmental and consumer groups strongly oppose any exemptions for minor use pesticides. These groups are concerned about waiving health and safety data for such chemicals because fruits and vegetables are such an important part of children's diets. They are also opposed to putting off the day, after waiting over 20 years, for determining whether these chemicals are truly safe. These same concerns were voiced in the 1993 National Academy of Sciences report "Pesticides in the Diets of Infants and Children."

Minor crop growers are concerned, however, that some chemical companies are not reregistering pesticides for use on fruits and vegetables due solely to the cost associated with reregistration.

The committee staff worked for weeks on a compromise that would be acceptable to fruit and vegetable growers, environmentalists and consumers. Unfortunately, a final agreement could not be reached.

The compromise would have conditioned the data waivers and time extensions under the bill to recordkeeping and risk reduction efforts. The benefits of the bill would have been available in states that have pesticide recordkeeping. Nineteen States (including Vermont, California, and Florida) already require records. These States account for three-quarters of the fruit and vegetable production in the United States.

The compromise would have also permitted the benefits of the bill to be available in States that don't have recordkeeping if grower associations or even individuals would agree to keep records. Some food processing companies, for example, already require individual growers to keep records.

Thus, the bill would not impose any new recordkeeping requirements on farmers. It would simply limit the benefits of the bill to those growers who keep records.

The compromise would also ask minor crop growers to adopt risk reduction plans by (1) developing a safer alternative pest management tools; or (2) adopting a use reduction program.

I regret that we were unable to reach a compromise that would satisfy all interested parties. I intend to continue working for a solution that all sides can support next year. I thank Senator INOUYE for his efforts and cooperation on this matter.

H.R. 3678

Mr. JOHNSTON. This week the Senate passed H.R. 3678, legislation that will make it easier to use sand, gravel and shell from the Outer Continental Shelf for environmentally beneficial public projects such as coastal restoration. This is an important victory for coastal States.

Many States, including Louisiana, do not have adequate sand deposits within State waters to accomplish these important projects. These sand resources, however, are often found on the Outer Continental Shelf. Under current law, the Department of Interior can not provide sand and gravel resources to public agencies to pursue these beneficial projects without following cumbersome leasing practices which are more appropriate for private commercial ventures.

H.R. 3678 authorizes the Secretary to negotiate agreements for the use of Federal sand, gravel, and shell for use in shore protection, beach restoration, or coastal wetlands restoration projects undertaken by a Federal, State, or local government agency, or any other construction project funded in whole or in part by, or authorized by, the Federal Government. This would include the authority to negotiate for the use of sand resources from authorized Federal projects when such sand is used by non-Federal entities.

In addition, H.R. 3678 gives the Secretary the authority to charge a fee for these resources, after balancing the value of the resources and the public interest service by promoting development of the resources. In other words, if a State or local government needs sand resources to restore a beach or to protect valuable wetlands resources, but the cost of the sand would make such project uneconomic, the Secretary shall take that into account when determining the fee for the resource, or whether a fee should be assessed at all.

In addition, the bill provides that the Secretary shall not charge a fee, directly or indirectly, for sand, gravel or shell resources used for projects directly or indirectly authorized by the Federal Government.

TRIBUTE TO FRANKLIN JONES

Mr. BINGAMAN. Mr. President, as we come to the conclusion of the 103d Congress, taking stock of what we have done and listing those things we would like to do in the next Congress if the voters permit, I think of a friend in New Mexico who has served both the U.S. Senate and the State of New Mexico with great distinction.

Franklin Jones is one of New Mexico's best and most talented sons. His career, one which blends private practice with public service, is not unique in our State. Many people have done it, but none with the skill of Franklin Jones. He is an organizational wizard who has brought to bear on tax structure not only his vision, but his sense of fairness and a master mechanic's knowledge of how things work.

Knowing what a difference Franklin could make to the Senate's way of doing things, Senator DOMENICI asked him to come to Washington some 20 years ago for a few years of duty on the Budget Committee staff. That the Senate has not caught up to Franklin Jones is not for his lack of trying.

His work in New Mexico is legendary and our State owes him a great debt, for not only is he the guiding hand behind many of our public policies, he is the good friend and helping hand to lots of people, including Anne and me. He is a formidable and challenging intellectual presence in the lives of all of us who seek his advice. To have known his friendship as well as his counsel is something I will cherish all of my life.

He has known for a little more than a year that he has a swifter clock than the rest of us. These have been months full of important work, clear thought and undiminished quality. In the effort to treat his fatal illness as just one more project to deliver with grace, he is aided by his remarkable wife, Bernice, and the confidence that this, too, could be managed. And manage they do, just as we expected they would. With gallantry and grace, they have met every change, every setback.

Lessons in living come to us every day. Lessons in dying are not as abundant. Franklin has given us both. Our thoughts and prayers are with him and his family.

S. 2345, A BILL TO AUTHORIZE LOCAL AND STATE GOVERNMENTS TO MANAGE AND CONTROL SOLID WASTE

Mr. LEVIN. Mr. President, the House has taken up and passed S. 2345, a bill to allow local and State governments to limit and control the flow of solid waste. The House inserted a substitute amendment which was developed during intense negotiations between the House and the Senate, and between exporting and importing States. The Senate should take up a pass S. 2345 as amended by the House, without amendment.

The bill is a bipartisan, multi-State compromise. It provides local governments the opportunity to limit the importation of out-of-State waste, and the authority to limit the exportation of municipal solid waste from their jurisdiction. However, the latter authority is granted only if the State or qualified political subdivision finds that flow control is necessary to meet the current or anticipated waste management needs of the area and that the exercise of this authority is necessary to provide integrated solid waste management services in an economically

efficient and environmentally sound manner. Further, local governments wishing to use flow control authority must also establish a program to separate recyclable materials from the municipal waste stream.

S. 2345, as amended, includes an important provision for Michigan, the needs determination section. Under this section, Michigan's model permitting and planning process can continue without fear of constitutional challenge. Michigan has long required its counties to engage in long-term comprehensive solid waste management planning and permitting. This planning process must take into account local and regional needs for the next 20 years. That is the kind of planning that encourages waste reduction and pollution prevention. But, a variety of Supreme Court decisions, including Fort Gratiot Landfill vs. the Michigan Department of Natural Resources, have thrown this kind of planning into disarray. This section and this whole bill will stop the playing field from constantly tilting and provide county managers and States with much-needed stability.

Mr. President, I urge my colleagues to move this legislation before adjourning. It makes sense. It encourages wise, long-term planning that is sensitive to economics and the environment.

THE NORTHEAST INTERSTATE DAIRY COMPACT

Mr. MITCHELL. Mr. President, I rise today in support of the Northeast Interstate Dairy Compact. Unfortunately, the Senate was unable to proceed to the bill during this session of Congress. However, it is my hope that the 104th Congress will take up the compact early in the next session and provide New England dairy farmers with the relief they need.

The Northeast Interstate Dairy Compact was presented to the Congress following the unanimous approval by the participatory states and strong bi-partisan support from the New England congressional delegation.

The compact addresses one of the biggest problems facing small dairy farmers—volatility in the national marketplace. The compact is designed to reassert a measure of stability and fairness by creating a regional commission to set prices for fluid milk sold in New England. The commission will be comprised of a delegation from each State that will include representatives from dairy and consumer groups to ensure fairness and balance in carrying out their responsibilities.

Mr. President, the need for this compact is clear. The Judiciary Committee has reported that the price New England dairy farmers receive nationally is lower now than it was 10 years ago. However, the declining price paid to farmers has not benefited consumers. In fact, consumer prices for drinking milk have increased more than 30 percent in the last decade. Fluctuations in the price farmers receive for their milk have worked to the benefit of milk processors and retailers, not farmers of consumers.

The declining fortunes of the small dairy farmers can be seen most clearly in Maine. Ten years ago, Maine was home to more than 1,800 small dairy farms. Today, there are approximately 600 dairy farms averaging 50–55 dairy cows per herd. Maine's dairy farmers have fought a losing war of attrition against instability and volatility in the national dairy market. This instability is threatening to end a centuries old tradition of Maine's economy and social fabric.

This tradition has faced another threat as a result of a recent decision by the U.S. Court of Appeals for the First Circuit. The Appeals Court stuck down a Maine law that had provided financial compensation for local diary farmers. The absence of financial compensation from the Maine Dairy Stability Fund has placed an even greater burden our dairy farmers.

Contrary to recent assertion, the benefits of this compact do not come at the expense of other regions of the country. The compact will not effect consumers in other States because it applies only to fluid milk sold in New England. In addition, the compact will not effect farmers in other regions because it can only regulate prices where milk is sold, rather than where it is produced. This allows any farmer to market their milk in the compact region, regardless of where a farmer is located.

Mr. President, this is an important piece of legislation for Maine and New England. The Northeast Interstate Dairy Compact will create a system where consumers and producers can collectively regulate the price processors pay for milk in New England and establish a stable milk industry which can benefit all interested parties. Let me reiterate, this compact affects only fluid of Class I milk purchased in New England—a market that accounts for only 3 percent of the Nation's milk production.

I regret that I will not be here next year to help enact this important legislation. Fortunately, the distinguished Senator from Vermont and chairman of the Agriculture Committee, Senator LEAHY, will be here to continue his leadership on this issue. Senator LEAHY has been a tireless champion of this cause putting in countless hours of hard work to get this bill before the body. His leadership on this issue will continue to benefit every dairy farmer and consumer in New England.

It is my hope that the Congress will grant its consent to this compact next year. Through the efforts of Senator LEAHY and all of my colleagues from New England, I am confident that the Senate will recognize the value of this compact and give New England dairy farmers the kind of future they so richly deserve.

GRIDLOCK AGAIN

Mr. LAUTENBERG. Mr. President, for the third time this week I must rise because a few of my Republican colleagues have chosen to deny the country legislation that would have produced enormous benefits for our economy and for our environment.

Over the past several days, I have tried to get consent to have S. 773, the Voluntary Environmental Cleanup and Economic Redevelopment Act, passed by the Senate. But once again—for the third time this year—certain Republicans have refused to allow this bill to move forward.

Each time, despite over a dozen cosponsors from both sides of the aisle, and broad support from business, environmentalists, State and local governments, and the Clinton administration for my bill, certain Republicans have blocked my efforts. I want the record to reflect these actions, so that everyone understands just what their strategy of gridlock means for our citizens.

Like many other in Congress and in the administration, I am deeply concerned that too many Americans are without a job today.

Thousands of people in New Jersey still are unemployed. While recent indicators show some promise of a reviving economy, we still need to expand the opportunities for employment. All of us in Congress should be doing everything we can to foster economic growth and create new jobs. My bill would have done just that.

S. 773 could have helped local communities move ahead with economic development projects while, at the same time, more quickly clean up environmentally contaminated sites. It was an effort to empower local communities and those wishing to invest in job-creating projects without sacrificing public health or environmental protection.

S. 773 would provide seed money for States to develop voluntary cleanup programs or expand existing programs. It targets the tens of thousands of sites that have only minor contamination problems—the ones that are relatively easy to clean up but whose remediation is stalled because leaders or developers are afraid of possible environmental liability.

Under a voluntary cleanup program, site owners can volunteer to pay for the costs of remediation and State oversight. In return, they get a letter from the State assuring that the property has been cleaned up to the government's satisfaction. This letter can assure other parties—such as prospective

buyers or leaders—that they need not fear future liability. Simple as it is, such as assurance is absolutely key to facilitating property transactions, and can free up sites for economic development.

The second major feature of the bill is an innovative way to encourage lending institutions to make low interest loans to qualified parties who want to assess and clean up contamination where traditional lending mechanisms are not available. Approaches comparable to the innovative lending mechanism used here have in some States taken each dollar of Government outlays and leveraged $23 of private loans—a much greater "bang for the buck" than traditional Government lending approaches.

The economic development potential of this bill is enormous, producing returns on investment of 100 to 1 or more.

In my own State of New Jersey, the State's initial investment of $3 million in a voluntary cleanup program less than 2 years ago has already created 3,000 jobs and generated several hundred million dollars of economic redevelopment activity. Oregon and Illinois have had similar results, and States such as Michigan and Massachusetts are also developing their own voluntary cleanup programs.

My bill would have expanded this program in New Jersey and extended its benefits to other States—potentially creating billions of dollars of economic development potential.

The relatively small amount of seed money provided in this bill could have leveraged substantial economic benefits. It is designed to keep the bureaucracy involved to an absolute minimum, consistent with ongoing efforts to reduce the size of Government without sacrificing important public benefits.

States would simply approve work plans for cleanup at the beginning, then review the cleanup at the end.

This bill would have started the ball rolling, and then let the private market run with it.

I introduced S. 773 on April 3, 1993. The bipartisan leadership of the Environment and Public Works Committee were with us from the start, and indeed Senators BAUCUS, CHAFEE, DURENBERGER, WARNER, and others were extremely supportive in shaping and moving this bill.

In a hearing on this bill, S. 773 was called a "win-win" situation and endorsed by a broad spectrum of business groups, environmentalists, State and local governments, representatives of the banking community and investors. Groups as diverse as the National Realty Committee, American Bankers Association, Mortgage Bankers Association, National Wildlife Federation, National Association of Counties, National Association of Towns and Townships, and Association of State and Territorial Solid Waste Management Officials support this legislation.

The administration testified favorably about this bill.

The Senate Environment and Public Works Committee unanimously approved it on July 30, 1993. Senator RIEGLE, chairman of the Banking, Housing and Urban Affairs Committee, made valuable suggestions to further improve the bill and extend its benefits more broadly, and with other Senators off the Environment Committee joined in cosponsorship of the legislation.

But that's as far as we were allowed to get with it.

Starting as far back as November 1993, each time I tried to bring this bill to the floor, while every one of the Democratic Senators cleared the bill for passage, a mysterious series of holds appeared on the other side of the aisle.

The same thing happened again in March.

When I incorporated S. 773 into the Superfund Reform Act, the Republican leadership decided to kill that legislation as well—even though a massive coalition representing literally millions of big and small businesses, environmental groups, State and local governments, the banking, real estate, insurance industry, and even the Salvation Army and American Bible Society were all pushing for the reforms in that bill.

An now again this week, when I tried to move S. 773 as a free-standing bill, despite the continuing support of every Democrat in the Senate, we have once again encountered mysterious holds on the Republican side.

Mr. President, in over a decade of service in this body I have seen few bills that have had such broad support from the beginning and that made such good sense for both the economy and the environment.

That is why I am frankly puzzled why a bill which has had such wide support from the business community, economic development officials, and environmentalists has not been allowed to come to the floor.

Since the bill repeatedly was cleared by the Democratic side for approval, I have to ask: do the Republicans who have objected to this bill think it is bad policy to create jobs, promote economic redevelopment, and cleanup the environment throughout our country?

I believe—and I hope the American people will agree—that there is no excuse for holding just beyond the reach of our unemployed citizens the thousands of jobs and billions of dollars of potential economic development that can flow from this bill.

I hope that next year when I intend to reintroduce this bill there will be more of a willingness to do what is right for the country.

TRIBUTE TO RALPH G. HILL

Mr. JOHNSTON. Mr. President, I would like to take a moment to recognize the work at the Department of the Interior of the late Ralph G. Hill, Jr. Mr. Hill, a native of Asheville, NC, was an attorney in the Office of the Legislative Counsel for the Department of the Interior for over 11 years. During the last 7 years of his tenure at Interior, he served as the Department's Assistant Legislative Counsel. As such, he often worked with my staff, providing comments on legislation and necessary background information. Mr. Hill also served as a staff member in both the Senate and House of Representatives. He died of cancer on April 23, 1994, at the age of 43.

Within Interior, Mr. Hill developed an expertise in laws relating to the Bureau of Land Management and the Office of Surface Mining. His diligent work on legislation to reform the mining law enabled the Department to provide detailed comments to assist the committee in our efforts on this legislation this Congress. Mr. Hill was known among his peers as a man who strived for quality in all he did, who approached public service with dedication and integrity, and who managed to maintain a sense of humor throughout it all. He is greatly missed by his colleagues within the Department of the Interior and by those who had the privilege of working with him here in the Congress.

CONFIRMATION OF CHARLES R. WILSON AS U.S. ATTORNEY

Mr. GRAHAM. Mr. President, I would like to extend my congratulations to Charles Wilson of Tampa, FL, who was confirmed by the Senate yesterday to serve as U.S. Attorney for the Middle District of Florida.

Mr. Wilson, a Pensacola native, has an extensive background in the judicial community in Florida. Before becoming a Federal magistrate in 1990, he served as assistant county attorney for Hillsborough County in Tampa, and in 1986, as Governor of Florida, I appointed him to serve on the County Court of the 13th Judicial Circuit of Florida. He was also in private practice for 5 years. Prior to his nomination, he worked as counsel to the Administrator of the Office of Juvenile Justice and Delinquency Prevention in Washington.

Mr. Wilson brings professional and judicial experience to his new position as well as a strong knowledge of his community. I have long admired his intellect, his maturity, and his dedication to public service, and look forward to working with him in his new role.

NOMINATION OF DR. ROBERT PASTOR TO BE U.S. AMBASSADOR TO PANAMA

Mr. NUNN. Mr. President, earlier this week the Committee of Foreign Relations favorably reported the nomination of Dr. Robert Pastor to be the

U.S. Ambassador to Panama by a vote of 15 to 3.

I have known and worked with Bob Pastor for almost a decade and have relied on his advice on a number of issues relating to Latin American. I believe that his comprehensive knowledge of Panama and of the region uniquely qualify him to be the United States Ambassador to Panama. I have the utmost confidence that Bob and his dedicated wife, Margaret, will be excellent representatives of the United States to Panama.

Bob Pastor has distinguished academic credentials as well as a distinguished record of public service. He was Director of the Linowitz Commission on U.S.-Latin American Relations. He was Director of the Office of Latin American and Caribbean Affairs on the National Security Council during the Carter administration. Currently, he is Professor of Political Science at Emory University, and also Director of the Latin American and Caribbean Program at Emory's Carter Center.

Mr. President, Bob Pastor also played a key role in the successful negotiations between President Carter's delegation and the de facto government of Haiti. In a speech to the Senate on September 26, I noted that Bob deserves a large measure of credit for the agreement that our delegation was able to reach which resulted in the peaceful occupation of Haiti by our military and avoided a large loss of American and Haitian lives.

Mr. President, unfortunately Bob Pastor's nomination was only filed in the Senate late yesterday, and the written report on this nomination is not available yet from the Government Printing Office. Under the Senate rules, this written report must be available for two calendar days before the nomination can be taken up, so the Senate will not be able to act on this nomination before we recess today if there is objection from any Senator. I am saddened that there will be an objection so the nomination will not be approved today.

I regret that Bob Pastor's nomination cannot be approved at this time. It is clear from the vote in the Foreign Relations Committee and from discussions with my colleagues that Bob Pastor's nomination enjoys strong support on both sides of the aisle. I hope that the Senate will be able to act on this nomination during the special trade session later this year. If not, then I expect that the administration will resubmit the nomination to the 104th Congress early next year and we can act on the nomination at that time without delay.

WELFARE REFORM

Mr. DOLE. Mr. President, Congress must reform welfare so recipients can gain self-sufficiency and self-respect. Responsibility should be encouraged. The existing welfare bureaucracy should be tightened and made efficient.

To accomplish this, Congress must reach outside of Washington, DC, to find solutions. Solutions that, provide a role for the Federal Government that does not mandate—but does appropriately support the efforts of individuals, the public and private sector, and State and local government. America's most vulnerable citizens must be given the best chance to enter mainstream society and not be left behind in a failed system.

Welfare reform should emphasize that real, private sector jobs are critical to leaving the welfare system and getting out of poverty. Public sponsored make-work jobs, which have been advocated in some welfare reform efforts, often result in more costs, more bureaucracy, and more government dependency.

While the Federal Government tries to come up with solutions, we should understand the innovative private sector initiatives designed to provide real jobs and promote character.

One such program is the Young Entrepreneurs of Wichita, KS. Charles and Liz Koch of Wichita brought this program to Kansas 3 years ago. Choosing Wichita for an entrepreneurship program makes sense to anyone familiar with that city. It is the birthplace of many entrepreneurial success stories—including Boeing, Beech, Cessna, Learjet, Coleman, Pizza Hut, Rent-A-Center, and Koch Industries. After witnessing the success of the Young Entrepreneurs Program in Kansas, the Koch Refining Co. brought the program to Minneapolis. Recently, David Koch began a Young Entrepreneurs Program here in the Nation's Capital.

The mission of the Young Entrepreneurs is to enable at-risk, economically or physically challenged minority youth to break free of the cycle of poverty by exposing them to specialized training in business and entrepreneurship. David Koch at the kickoff for DC's program a number of months ago quoted this ageless piece of wisdom: "Give a man a fish and he can eat for a day. But teach a man to fish and he can eat for a lifetime." The Young Entrepreneurs Program is trying to teach some of our most disadvantaged youth the lifetime of entrepreneurship.

This program teaches the participants how to set up and run their own businesses. It places young people ages 13–18 in a "mini-MBA" program. But it doesn't stop with classroom theories. After learning the fundamentals, the students actually become young entrepreneurs. Here's how it works:

The organization chooses a school in an area based on its high-risk student population. A teacher within the school is selected to provide the student instruction. The designated teacher takes an intensive training course and is paid a stipend. At-risk students are handpicked by the teacher and school counselors. The students receive 40 to 70 hours of instruction in business management. They write a detailed business plan and receive $50.00 in seed capital to enable them to buy products from a wholesaler. They then design posters, flyer, and business cards to market their products. They open bank accounts and, finally, at the end of the semester, they go out into the marketplace and sell their products.

Shawn Blakely, one of the Young Entrepreneurs of Wichita, is a example of its success. Shawn was trying to put together a business plan to market special birdfeeders. Shawn's birdfeeders were big and beautiful with dazzing designs in the shape of gazebos. This young man enlisted the help of his grandfather, a lifelong metal worker, who designed a tool to produce the complicated designs more quickly. The business, Cheep Birdfeeders, took off and continues to thrive. Shawn and other members of his family are now employed by the company.

Another participant in the Wichita program, Monique Landers, decided to open a hair braiding business with the skills acquired in the Young Entrepreneurs. She did so well with her business that she was honored by the association of college Entrepreneurs, who flew her to New York City to receive their award.

Kids like Shawn and Monique can accomplish great things. By teaching them the fundamentals of Entrepreneurship, and by walking them through the process of establishing their own small businesses, this program gives young people an immediate reason to learn. In addition, it gives them an opportunity to apply their learning in the real world. Being the president of a company can have a wonderful impact on the self-esteem of a young woman or a young man. The young Entrepreneurs Program builds character which will serve these young people throughout their lives. Right now, the Young Entrepreneurs Program is reaching out to thousands of Young Americans with the financial support of the Koch Family and Koch Industries. Their contribution is $1.5 million a year.

The Young Entrepreneurship Program helps these young people improve their reading, writing, mathematics, and verbal communication skills. They learn fundamentals of economics. They learn about honesty and responsibility. They reap the rewards of persistence and hard work. These young Americans are learning about skills to become economically independent. This is the kind of stuff that builds self-esteem.

I thank the Kochs and their company, Koch Industries, for bringing the Young Entrepreneurs Program to the young Americans of Kansas, Minnesota, and to our Nation's Capital.

STATEMENT ON THE NOMINATION OF ROBERT PASTOR

Mr. SIMPSON. I rise to address the nomination of Robert Pastor to be Ambassador to Panama.

Dr. Pastor was nominated by the President on June 8 to be Ambassador to Panama. He was reported out of the Senate Foreign Relations Committee by an 16–3 vote, supported by a majority of Democrats and Republicans alike.

I have known Dr. Pastor for more than a decade. We worked together very closely on immigration issues, and he always provided important cooperation and expertise both to me and to the chief counsel on my immigration staff Dick Day. Dr. Pastor is renowned for his knowledge of a wide range of foreign policy issues, most especially concerning the region where he has been nominated to serve. He is exceptionally well qualified for the post to which he has been nominated, and I believe that he would represent our Nation with distinction, integrity, and creativity.

We have not had an Ambassador in Panama since last February. This is most unfortunate, due to our important interests there, and I regret further that we will not have an Ambassador there for some months to come. I do wish the RECORD to reflect that I support Dr. Pastor's nomination and intend to vote in favor of his confirmation when that question comes again before the Senate.

REPORT OF THE U.S. COMMISSION ON IMMIGRATION REFORM

Mr. SIMPSON. Mr. President, last week the U.S. Commission on Immigration Reform, chaired by Barbara Jordan, submitted its first report to the Congress.

We created the Commission in the 1990 Immigration Act. Its bipartisan membership was selected by the congressional leadership, with the chairperson appointed by the President.

This first report from the Commission dealt principally with illegal immigration which continues to be a major problem for the Government and a growing concern to the American public.

Fifteen years ago I served on a similar Commission whose final report dealt with illegal immigration and made certain recommendations to address the problem. However, that Commission, and I was one of the commissioners, "passed" on the question of a secure worker verification system.

Similarly, when I drafted legislation, which later became law, to carry out the recommendations of that first Commission, we again ducked on the issue of a secure verification system. Opposition from civil libertarians on the right and on the left, joined by the Hispanic caucus and the various Hispanic organizations, and especially their "executive director" designees forced us to deal with illegal immigration without an adequate means of identifying those authorized to work in the United States.

The results of this omission are well known: We continue to have a very serious illegal immigration problem; and perhaps even more dramatic, we now have a serious problem of the widespread manufacture, trafficking, and use of counterfeit documents in the United States.

The Jordan Commission, to its good and great credit, not only recommended the "development and implementation of a simpler, more fraud-resistant system for verifying work authorization," but it also proposed a system which would avoid discrimination, meet civil liberties and privacy standards, and reduce the time and paperwork burden on employers. The Commission did not propose a national identity card—shades of George Orwell—as some have suggested, nor did they propose a system which would lead us down any of those sinister "slippery slopes."

What the Commission did recommend is a "computerized registry using data provided by the Social Security Administration and the Immigration and Naturalization Service." The key to the system is the Social Security account number which the employer will check through the computerized registry—one call to the registry and a confirmation number back to the employer. Just as we do for credit cards.

I was totally appalled and amazed at the reaction from the administration as it burbled and backpedaled and tried to put distance between the White House and the recommendations of the Commission.

Both the White House and the Justice Department have acknowledged, publicly, that illegal immigration is one of the most serious problems this country is facing, yet this fine concise, reasonable report received nothing more than a cursory mention by this administration. No wonder the public believes the White House is totally—and perhaps terminally—out of touch with America.

This proud, vivacious, brilliant, civil libertarian, Barbara Jordan, the chairperson of the Commission, deserves our deepest gratitude and sincere congratulations, and the eight highly respected members of the Commission: Larry Fuchs, Michael Teitelbaum, Richard Estrada, Harold Ezell, Bob Hill, Warren Leiden, Nelson Merced, and Bruce Morrison deserve our highest praise. This diverse and bipartisan Commission, and its excellent and courteous staff, has presented a series of unanimous, repeat—unanimous—recommendations to the Congress on dealing with unlawful immigration.

That is no mean task. Can any of my colleagues imagine obtaining a unanimous series of recommendations on an issue as controversial as immigration out of a bipartisan Commission made up of Members of this body?

Many of the Commission's recommendations were already part of the comprehensive reform bill which I introduced earlier in this Congress. I will introduce, early in the next Congress, a comprehensive immigration reform bill following closely the recommendations contained in this most excellent report.

Some of the naysayers have criticized the proposed worker verification program as being too expensive. We heard the same old plaint from the critics in the early eighties when we explored the use of the Social Security number card as constituting a possible worker authorization document.

The Social Security Administration then said it would cost "billions of dollars" to change their card. Today we are hearing again that there will be a cost "in the billions," if we implement this Commission's recommendations. Those making these dramatic claims have not read the report.

The Commission did not recommend the reissuance of the Social Security card which is probably where most of the critics are getting their "multi-billion dollar program" idea. Rather, the Commission recommends setting up a registry, using existing data in the Social Security Administration database, that employers could call to confirm the Social Security number of new hires.

The cost estimate for setting up this system and operating it over a 5-year period is $300 million. About $60 million a year. The registry itself would require only $4 million to set up. The bulk of the cost is in checking the Social Security numbers against the registry and correcting any errors that are there. And there are errors there, and it is so important that those errors be corrected.

Thus, the Commission's proposal has not only the virtue of cleaning up the Social Security database and the Immigration Service database, but it will also provide a simple, nondiscriminatory method of verifying the work authorization of all new hires. No national ID card, no billion dollar cost, no loss of our liberties and privacy. No horror stories.

Further, the Commission very prudently has proposed pilot programs in the most impacted States to first test this use of the combined databases. To avoid any loss of privacy or liberties, the Commission also proposed that institutions and individuals with expertise in privacy matters be involved in the development and assessment of the pilot programs.

The Commission has made what I believe is a thoughtful and splendid recommendation to address our grave national problem with worker verification. Now I intend to work diligently with my colleagues—on both sides of the aisle—in the subcommittee and in the Senate to authorize and appropriate the funding necessary to carry out the recommendations.

Once again Mr. President, I want to say that Chairman Barbara Jordan and the full Commission on Immigration Reform deserve our highest national praise, and I know I also speak clearly on that part for my colleagues on the Immigration Subcommittee who were present at our hearing last month when the Commission reported to the committee on its recommendations.

They have presented us an enviable work product. It's a true shame that apparently no one at the White House has the slightest concept of the impact of this issue on our national consciousness. So sad and disappointing.

RETIREMENT OF MALCOLM WALLOP

Mr. SIMPSON. Of all the tributes to Members departing this body, here is the one that means most to me.

My friend, MALCOLM WALLOP, has been the senior member of the Wyoming delegation for my entire time in this body—nearly 16 years.

But he has been so much more than that—my time with him goes back so much further, for MALCOLM and I also served together in the Wyoming legislature in Cheyenne—taking on, as we have here, the toughest of the tough issues. And even before those days, we shared a long family relationship.

For a decade, MALCOLM, then House Member Dick Cheney, and I worked together in total coordination and cooperation—and since Dick's promotion we have been joined by the tremendously able CRAIG THOMAS as the third member of our team—and soon, I hope he will join those of us here in this Chamber to continue the legacy of service to Wyoming that MALCOLM has so deeply etched into the fiber of the Senate.

Down through his nearly 18 years in the Senate, MALCOLM has demonstrated total consistency, perseverance, and solid performance. He has taken on the tough issue and tough legislators alike. Early in my time here, his work on the Ethics Committee brought him deserved rave reviews, especially during the Pete Williams expulsion proceedings. MALCOLM served as an extraordinary example of careful preparation and attention to due process. He handled it in a manner that would have stirred the admiration of any lawyer.

MALCOLM's steady work as a member of the Finance Committee and the Energy Committee can never be forgotten, because his imprint, his presence, molded and guided so much vital legislation through the process over the years. Especially valuable have been his tireless efforts on public lands issues and agriculture and estate taxation matters—things of great and even grave importance. And his efforts and expertise in defense issues are known to us all.

Those of us who know him so very well can not help but know him as a rock solid citizen and legislator, a man who is authentic and sincere and direct.

Here is a man who has dedicated his adult life to public service. Surely he did not have to. He, like many of us, had a multitude of options in life. but he chose involvement in the political and legislative processes because he cares—cares about Wyoming and about our Nation. He wanted to "make a difference," and he most certainly did. And in arena after arena in his life into the future, he will continue to.

MALCOLM and French WALLOP are more than participants in the full spectrum of Washington life, they form part of its very structure. This body and this town will not be the same after they return to Wyoming to invest their remarkable talents and intelligence and enormous energies in new pursuits. They will be deeply missed here.

My dear wife Ann and I express our deepest admiration for their guidance and friendship. It has been a long, long trail. I am proud to have shared it with them.

God bless you, my old, true and dear friend.

[From the Al Simpson Newsletter, Mar. 22, 1994]

SIMPSON COMMENTS ON WALLOP DECISION TO RETIRE

WASHINGTON, DC.—Senator Al Simpson (R-WY) said the following after learning that his friend and colleague Senator Malcolm Wallop (R-WY), has decided not to seek the Republican nomination for Governor of Wyoming:

"My feelings today are much like those I had when Malcolm announced in September that he would not seek another term in the United States Senate: We will all miss his energy, his spirit and the deep passion he showed as he worked for the people of his beloved home State. Malcolm would again have brought that same energy, that passion and a host of valuable experience to Wyoming state government if that had been the avenue he chose to pursue.

"Malcolm has given Wyoming and its people so very much of lasting value during his years of service in the United States Senate and in the Wyoming Legislature. He leaves a great and impressive record. The positive imprint of his style, values and love of Wyoming is clear. Wyoming will long be honored by Malcolm's legacy.

"While I shall sincerely miss serving with Malcolm, I can most certainly understand that a fine man who has dedicated his energy to public service for more than a quarter of a century might want to explore the wonderful and varied opportunities for further involvement and activities that lay beyond this political arena. Thanks, my old friend."

THE CONFERENCE REPORT ON THE MINORITY HEALTH IMPROVEMENT ACT OF 1994, S. 1569

Mr. HATCH. Mr. President, I rise to express my regret that the Senate was not able to act on the conference report accompanying S. 1569, the Minority Health Improvement Act of 1994.

I am disappointed that this conference report, which passed the House by a vote of 394 to 5, was not finally approved in these closing hours of the 103d Congress. As my colleagues know, this legislation represented a considerable amount of work by a very broad group of health care interests. It is a good bill which would have done much to advance health care in our country.

S. 1569 represented a significant accomplishment in strengthening Federal programs designed to improve the health status of minorities. The measure would have enhanced the delivery of health care services, the training of health care professionals, and expanded health research and health data collection for minorities.

The Minority Health Improvement Act of 1994 reauthorized and strengthened a number of expiring programs which comprise the core of our Federal strategy to promote minority health and reduce the disparity in health status and health access.

I was particularly pleased with the provisions that provided for a 2-year reauthorization of the Community and Migrant Health Centers Program. These centers serve to provide much needed primary care to thousands of our citizens in underserved areas of the country. I strongly supported this component of S. 1569.

I also strongly supported the provision authorizing a new program on Traumatic Brain Injury [TBI]. this bill has passed the Senate as a freestanding measure, S. 725, but its fate seems uncertain this year.

I want to express extreme regret that the TBI legislation has been held up due to controversy over unrelated measures. The TBI bill is an important initiative, and if it does not go through in the 103d Congress, I plan to make it a priority for the 104th. Our colleague in the House of Representatives, Representative JIM GREENWOOD, is to be commended for his outstanding leadership on this issue.

As my colleagues know, during the course of our consideration of the Minority Health bill, the legislation evolved into a more sweeping piece measure than that which was originally drafted.

There were a few provisions in the conference agreement which I found troubling, and I hope that they can be improved next year.

I was especially concerned about the House language in section 807 of title

VIII regarding drug pricing. Conferees wisely rejected attempts to expand the provisions even further beyond the House language, but I still was not comfortable with the final language. I hope that any legislation next year will not contain such a provision, the position that was reflected in the Senate bill.

Finally, I want to thank all the conferees and their staff, especially Dr. Van Dunn, for their hard work on this legislation. The Minority Health Improvement Act is an important bill, and I hope it will be a priority for enactment during the early months of 1995.

OPPOSITION TO MEDICARE CUTS

Mr. HATCH. Mr. President, while much attention has been given to health care reform issues during this Congress, next year we will return to debate many of the same issues. This year we discussed many aspects of reform: universal coverage, employer mandates, tax credits, insurance market reform, and medical liability reform to name a few. Today, I want to highlight one area of health care reform that received considerable focus, namely Medicare cuts. While I oppose generally the use of Medicare cuts as a financing mechanism for health care reform, I want to take a moment and describe two particular Medicare cuts that will affect patient care and quality.

These cuts are made to laboratory services in the form of mandatory copayments to Medicare beneficiaries and the imposition of a competitive bidding proposal for regional laboratory services. Both of these provisions were included in President Clinton's Health Security Act and it is my hope that in the name of quality health care and fairness to our Nation's senior citizens, they are not included in any plan proposed during the next Congress.

Let me begin by discussing the imposition of a mandatory copayment for laboratory services. This provision would save the Federal Government $8 billion over 5 years—however, that $8 billion will be paid by elderly Medicare beneficiaries, many of whom are least able to pay.

In addition, the amounts in question to collect for individual tests are often so small that they do not merit collection. A coinsurance payment of 20 percent of a $20 lab charge is $4 dollars; on a $50 lab fee the payment is $10. Imagine the amount of record keeping and the cost of generating a bill to obtain $4 from a beneficiary. Laboratories estimate that the additional billing and collection requirements would average between $3 and $5 just to produce the additional invoice covering the coinsurance. And, we all know it sometimes takes more than one bill to be sent before payment is ever received. And, there are questions as to whether the laboratory can even waive copayment because of the limitations imposed by Medicare fraud and abuse statutes which may prohibit the waiving of such payments.

These figures do not even begin to account for the confusion that could be created among seniors by the receipt of additional paperwork and bills. For seniors, a streamlined and simplified billing process is one of Medicare's important attributes.

MULTISTATE UTILITY CONSUMER PROTECTION ACT

Mr. BUMPERS. Mr. President, on July 22 the Energy and Natural Resources Committee adopted an amended version of S. 544, the Multistate Utility Consumer Protection Act of 1994. This bill would provide essential regulatory protections to the 49 million households in 30 States served by electric utility subsidiaries of utility holding companies registered pursuant to the Public Utility Holding Company Act of 1935 [PUHCA]. The legislation would overturn a recent appellate court decision, Ohio Power versus FERC, in order to restore the authority of the Federal Energy Regulatory Commission [FERC] and State utility regulatory agencies to protect consumers against unreasonable charges for goods and services provided to electric utilities by affiliate companies.

Mr. President, after S. 544 was reported out of the Energy Committee, it was incorporated into S. 1822, the Communications Act of 1994, which was reported by the Commerce Committee. Unfortunately, S. 1822 will not be considered by the Senate prior to adjournment. However, I want to assure my colleagues and all those interested in the legislation that Multistate Utility Consumer Protection Act is far from dead.

I intend to introduce legislation early next year to ensure that customers of registered utility holding companies are adequately protected. This legislation will include the provisions of S. 544 designed to overturn the Ohio Power decision. As was the case this year, I look forward to working with both consumer groups and the utility holding companies in an attempt to develop a consensus approach.

MINING LAW REFORM

Mr. BUMPERS. Mr. President, as everyone knows by now the 103d Congress will adjourn without enacting legislation to reform the 1872 mining law. What this means is that, for at least another year (and possibly longer), hardrock mining companies operating on our Nation's public lands can continue to extract billions of dollars worth of gold, silver, platinum, palladium and other hardrock minerals without compensating the taxpayers for even one red cent, while at the same time leaving the taxpayers with the costs of cleaning up the environmental disasters these mining companies leave behind. If this were not enough, the mining industry, and some members representing mining interests, now have the audacity to claim that they have always supported reasonable mining law reform and that the blame for Congress' failure to act lies with those very Members of Congress, such as myself, that have fought long and hard for reform. Mr. President, the fact is that nothing could be further from the truth.

I first introduced legislation in the Senate to comprehensively reform the 1872 mining law nearly 6 years ago. From day one, the mining industry has done nothing but throttle reform and proponents of reform every step along the way. Rather than sit down in an effort to work out a compromise, all I ever heard from industry was "no, we can't do this, and no, we can't do that". In fact, before Bill Clinton was elected President, the industry steadfastly opposed the payment of any royalty for mining on public lands even though the industry pays sizable royalties to private landowners and State governments for mineral production on their properties.

While mining law reform came closer to becoming a reality in the 103d Congress than ever before, what happened this year in conference illustrates how difficult a task it is when a wealthy and powerful industry wants to engage in the politics of gridlock. Although the House enacted a comprehensive and meaningful reform bill, the Senate was forced to pass a so-called "ticket to conference" in order, for the first time, to move mining law reform out of the Energy Committee and into a House-Senate conference.

Senator JOHNSTON, the chairman of the Energy and Natural Resources Committee, volunteered for the unenviable task of trying to craft a bill that would meet the needs of both industry and reformers. First, he entered into negotiations with the three Republican Senate members of the conference committee. However, after he made repeated concessions in order to meet their stated concerns, he was ultimately unable to meet all their demands. Senator JOHNSTON then began working with a group of Western Democratic Senators led by Senator REID of Nevada. They jointly drafted a negotiating proposal with the understanding that additional changes would be made to meet some of the concerns of proponents of reform. However, when Senator JOHNSTON proposed to make some minor changes some of the Western Senators immediately declared mining law reform dead and threatened to filibuster any bill reported by the conference committee.

In response, Senator JOHNSTON tried to meet the major concerns as expressed by industry. For instance, as proposed by the House conferees, he offered to strike all language in the bill with respect to the protection of water even though hardrock mining results in serious degradation of surface and ground water. In addition, he proposed to reduce the royalty to be charged for gold production to 3 percent as originally agreed-to by industry. However, as was readily apparent throughout, industry's objections were just moving targets. Rather than continue to negotiate in good faith, the industry and some Western Senators continued to threaten a filibuster. Senator JOHNSTON was forced to concede defeat and pronounced that the conference would be unable to report reform legislation.

Mr. President, it should be obvious to everyone that the mining industry never wanted reform legislation. However, what is even more outrageous is the charade industry is now engaged-in by trying to blame proponents of reform for the demise of mining law reform. While the industry and their representatives in Congress may have won this battle, it would be foolish for anyone to believe that I, or any other proponents of reform, will give up the fight.

The outrages of the anachronistic 122-year-old mining law are no longer a secret. Now that this issue has caught the public's attention, the voters will no longer allow Members of Congress (Democrats and Republicans alike) to vote to permit large mining corporations, many of which are headquartered in foreign countries, to take billions of dollars worth of taxpayer-owned resources without the payment of royalties, purchase public land for $2.50 an acre and pollute and permanently degrade water and land resources, leaving the taxpayers to clean up their mess. Mr. President, Senator JOHNSTON and others offered the mining industry with a deal they should never have passed up.

The industry has, since 1872, removed about 230 billion dollars, worth of gold, silver, and other hard rock minerals, and never paid the government one red cent in royalties. In addition they have left thousands of environmental disasters, 77 of which are on the endangered list, for the taxpayer to clean up at a cost of billions. This must not continue.

THE CONVENTION ON BIOLOGICAL DIVERSITY

Mr. MITCHELL. Mr. President, I would like to talk for a few minutes about the Convention on Biological Diversity.

During my time in the Senate, I have worked to ensure that our Nation's natural resources were protected. In the past decade, Congress has passed important legislation such as amendments to the Clean Air Act, the Clean Water Act, the Endangered Species Act, legislation to prevent oil spills, legislation to conserve wetlands, to reduce the use of toxic substances, and to reduce indoor air pollutants. These laws help ensure public health and give our children the opportunity to benefit from our Nation's resources.

That is why I am disappointed that some Members of the Senate will not allow the Senate to complete its work on this important treaty which will help other nations reach the levels of environmental protection that we have here in the United States. We had the chance to ratify a treaty that was negotiated by the international community for 2 years during the Bush administration, worked on extensively for a year by the Clinton administration, and submitted to the Senate almost 1 year ago. All of this work was undertaken because scientists and nations the world over recognize that the natural heritage of our planet—the biological diversity we inherited and should pass on to our children and grandchildren—is increasingly threatened.

As no document ever is, this treaty is not perfect. But the treaty was able to be brought before us because of the determined efforts by the current administration to address the legitimate concerns that have been raised—particularly with respect to finance, technology transfer, and biotechnology.

After a year of working with a coalition of industry groups and NGO's, the administration was able to transfer to the Senate a ratification package on November 29, 1993. The package included interpretive statements to be submitted to the United States detailing U.S. positions and understandings on the important financial and technology transfer areas.

During the hearings of the Senate Foreign Relations Committee on the treaty, the pharmaceutical and biotechnology industries testified in support of the treaty. Two Senators—one Democrat, one Republican—testified on behalf of the treaty and not one Senator present raised a concern or expressed any problem with the treaty. The treaty was reported favorably from the commission 16–3. Unfortunately, that was the last time the treaty was able to be considered by this body.

In early August, Republican Members, as is certainly their right, raised questions about the possible impact of the treaty on U.S. agricultural and land-use interests. These questions were immediately answered in an August 8 letter to the Senate leadership. The administration also followed up with a more detailed memorandum of record signed by the Secretaries of State, Agriculture, and Interior. The administration also has sent to Senator DOLE an opinion answering legal questions on the treaty which I submit for the RECORD. The administration has answered every question that has been raised about the treaty. With these steps completed, it was hoped that we could move toward floor consideration—but we could not clear a unanimous consent agreement on the Republican side.

I would like to quote from a letter sent to the Senate on September 29 from 8 agricultural and industry groups which sums up the administration's response to these groups concerns,

> Questions about the treaty's possible impact on public and private property rights, whether the treaty itself could be used as a basic for regulatory action or give rise to citizen's suits and whether it would in any way impede the amendment of U.S. environment have all the been appropriately dealt with in the Memorandum of Record.

Mr. President, I would like to submit this letter to the RECORD.

The PRESIDING OFFICER. Without, objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, I would also like to place in the RECORD a list of industry associations, nongovernmental organizations, and U.S. companies who have been actively supporting the ratification of the treaty.

These groups support the treaty because it is in the best economic and environmental interest of the United States. Here are some reasons why the treaty should be ratified.

Biological resources underpin many sectors of the U.S. economy, including farming and the agriculture industry, and developments of medicines, medical technology; and biotechnology. Some estimate that biological resources contribute more than $87 billion annually to our gross domestic product.

Ratification of the treaty would provide access to plant genetic resources vital to agricultural production. The Office of Technology Assessment reports that biodiversity has added $3.2 billion to U.S. annual soybean production, and $7 billion to our corn production.

The convention will protect U.S. access to genetic resources critical to the development of substances that may cure diseases such as the AIDS virus. Over 3,000 antibiotics are derived from microorganisms dependent on the world's biological resources. The treaty protects the United States from unnecessary restrictions on trade in biotechnology products.

Despite the support of a wide array of organizations and citizens across the country, ratification of the treaty was held up due to unfounded claims. The administration spent much time and enjoy explaining the treaty to those concerned, and created a memorandum

of record to address concerns about the provisions of the document. Still, Republican Senators chose to obstruct consideration of this important convention, and by doing so they hinder the economic and environmental benefits that can be derived from full participation in the treaty.

EXHIBIT 1

SEPTEMBER 29, 1994.

Hon. TED STEVENS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS: We believe that concerns raised earlier about the impact of the Biodiversity Treaty have been adequately addressed and that Senate ratification is desirable to protect the interests of U.S. agriculture.

Questions about the treaty's possible impact on public and private property rights, whether the treaty itself could be used as a basis for regulatory action or give rise to citizen's suits and whether it would in anyway impede the amendment of U.S. environmental law have all been appropriately dealt with in a Memorandum of Record forwarded to the Senate by the Secretaries of State, Agriculture, and Interior.

The organizations listed below have a direct and vital interest in the continuing development of U.S. agriculture. We believe that access to protoplasm originating outside the U.S. is vital to domestic plant breeding efforts and will best be protected by the country's participation in negotiations under the Treaty.

It is our view that overall protection of the planet's biodiversity, as well as the future development of domestic agriculture resources, will be substantially aided by Senate ratification of the Biodiversity Treaty. We urge that this be done quickly so that U.S. participation in the Conference of Parties scheduled for November-December 1994 is significantly strengthened.

Very truly yours,

Carl B. Feldbaum, Biotechnology Industry Organization; Dave Lambert, American Seed Trade Association; John Studebaker, American Seed Research Foundation; John R. McClandon, President, American Soybean Association; Judy Olson, President, National Association of Wheat Growers; Dale Cochran, National Council of Commercial Plant Breeders; Pete Wenstrand, President, National Corn Growers Association; Thomas E. Stenzel, President, United Fresh Fruit & Vegetable Association.

COMPANIES, ASSOCIATIONS AND ORGANIZATIONS THAT SUPPORT THE BIODIVERSITY CONVENTION

American Corn Growers Association (12,000 Members).

American Cyanamid.

American Institute of Biological Sciences (50 Affiliates).

American Seed Research Foundation.

American Seed Trade Association (800 Companies).

American Soybean Association (29,000 Farmers, 29 States).

Archer Daniels Midland.

Biodiversity Action Network (61 Academic, Scientific and Environmental Organizations).

Biotechnology Industry Organization (560 Companies).

Calgene Corporation.

Ciba Geigy.

Genentech.

Genzyme Corporation.

Hoffmann'la Roche.

International Association of Fish and Wildlife Agencies (200 Members).

Merck.

Mycogen.

Monsanto.

National Association of Wheat Growers (65,000 Farmers, 22 States).

National Cooperative Business Association (45,000 Cooperative Businesses).

National Corn Growers (28,555 Corporations, 24 States).

National Council of Commercial Plant Breeders.

National Farmers Union (253,000 Farmers, 50 States).

Pharmaceutical Research & Manufacturers Association (100 Companies, 40 States).

Pioneer Hybred International Incorporated.

Shaman Pharmaceuticals.

United Fresh Fruit and Vegetable Association (1500 Companies).

United States Council of International Business (300 Multilateral Companies, Trade Associations and Law Firms).

Zeneca Seeds.

U.S. DEPARTMENT OF STATE,
Washington, DC, October 6, 1994.

Hon. ROBERT DOLE,
U.S. Senate.

DEAR SENATOR DOLE: Thank you for your letter of September 30, co-signed by Senators Nickles and Shelby, setting forth certain views relating to the Convention on Biological Diversity.

The Administration has several times sought to address the issues raised by your letter, which primarily concern whether the Convention, if ratified, would prompt unwanted and costly litigation or would overturn state, local and tribal laws. For example, we have provided information on these matters in the report and message transmitting the Convention to the Senate; in testimony on the Convention before the Senate Foreign Relations Committee; through the Memorandum of Record signed by the Secretaries of State, Agriculture and Interior on August 16; through responses to previous questions from Senators; and in briefings provided to Senate staff.

We are nevertheless pleased to provide the following additional information to assist you and the Senate as a whole in your further consideration of this important treaty. The Department is also prepared to discuss these issues further with your staff as the ratification process moves forward.

Your letter first seeks an analysis of the extent to which the Convention, or federal actions taken to implement the Convention, could preempt, supersede or limit state, local or tribal laws and regulations. In our view, U.S. ratification of the Convention would not have any such effect. The conservation obligations of the Convention are sufficiently flexible as to allow the United States to implement them without disturbing either the overall balance of federal and state responsibilities or further preempting any state, local or tribal law. Indeed, as the Administration has stated repeatedly, the interwoven pattern of conservation laws and programs at all jurisdictional levels in the United States goes well beyond the minimum standards needed to meet our obligations under the Convention.

The Secretary of State's letter of transmittal sets forth a lengthy menu of federal statutes that are available to implement the Convention. No additional legislation is necessary. We have responded promptly and fully to all requests for additional information concerning the implementation of specific provisions of the Convention.

Moreover, we have stated that we anticipate no scenario under which the Convention would be used to preclude amendment of these statutes. For example, we are aware of no proposal to amend the Endangered Species Act that would place us in non-compliance with the Convention.

Your letter next calls into question the statement contained in the Memorandum of Record, signed by the Secretaries of State, Agriculture and Interior on August 16, that the Convention does not provide a private right of action. More specifically, the Memorandum of Record stipulates that:

The convention sets forth rights and obligations among countries. The Convention does not, expressly or by implication, create a private right of action under which a private person or group may challenge domestic laws and regulations as inconsistent with the Convention, or failure to enforce domestic laws or regulations promulgated thereunder.

We stand by this statement. The Convention contains no provisions granting a private right of action in the domestic courts of States that become party to it. Moreover, because the Convention is not self-executing, private parties in the United States could not successfully challenge governmental action, at any level, as inconsistent with the Convention. As noted in the analysis undertaken by Mark Pollot ("Technical Review of the Convention on Biological Diversity"), which is cited in your letter, certain federal environmental and procedural laws create private causes of action; a private right of action would not, however, be created by ratification of this treaty or by the supremacy clause of the Constitution.

Similarly, U.S. ratification of the Convention also would not give a private party in the United States standing to bring such an action in any case in which such a party otherwise lacked standing. In *Defenders of Wildlife v. Lujan*, the U.S. Supreme Court recently elaborated the criteria for determining whether private parties have standing to challenge environmental actions and policies of the government. None of these criteria depend on whether the United States has ratified a treaty such as the Convention that is related to the subject matter of the case.

For these reasons, we disagree with the rather sweeping assertion of Mr. Pollot that U.S. ratification would cause a "well-spring of litigation, making the Convention a likely candidate for the most litigated treaty in American history." Because U.S. ratification of the Convention would give private parties neither a cause of action nor standing that they otherwise lacked, we do not foresee any justifiable litigation of the sort Mr. Pollot fears.

Your letter also expresses a concern that the Convention could adversely affect property rights protected by the U.S. Constitution. We are pleased to assure you that this concern is unfounded. We do not see anything in the text of the Convention that could be interpreted to violate the U.S. Constitution.

Similarly, U.S. ratification of the Convention would not further restrict the right of state, local and tribal governments in the United States to control land use. Indeed, with the advice of the International Association of Fish and Wildlife Associations, which was a regular member of the U.S. delegation

during the negotiation of the Convention, the United States expressly negotiated the Convention to avoid any shift in the balance of federal and state authorities. On the contrary, the Administration is committed to strengthening—not dismantling—this balance. As the United States stated at the close of the negotiations and as the President reaffirmed in his letter to the Senate transmitting the Convention:

Biological diversity conservation in the United States is addressed through a tightly woven partnership of federal, state and private sector programs in management of our lands and waters, and their resident migratory species. There are hundreds of state and federal laws and programs and an extensive system of federal and state wildlife refuges, marine sanctuaries, wildlife management areas, recreation areas, parks, and forests. These existing programs and authorities are considered sufficient to enable any activities necessary to effectively implement our responsibilities under the Convention. The Administration does not intend to disrupt the existing balance of federal and state authorities through this Convention. Indeed, the Administration is committed to expanding and strengthening these relationships.

We hope this information is helpful. The Administration remains convinced that prompt U.S. ratification of the Convention is in the national interest.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

THE CONVENTION ON BIOLOGICAL DIVERSITY

Mr. PELL. Mr. President, I very much regret that an objection was made to the majority leader's unanimous consent request to bring up the Convention on Biological Diversity for Senate consideration.

In my view, there is simply no reason why the Senate should not take up and approve the convention now. As I noted in a statement yesterday, the importance of the convention is clear, the questions about the convention have been answered, the support for the convention is there, and it is time for the Senate to act.

As with so many other issues that are now languishing in this body, however, delaying tactics are being used to prevent the Senate from completing its business.

That is unfortunate Mr. President. It is unfortunate for the Senate. It is unfortunate for the substance of the treaty. And, above all, it is unfortunate for the American people.

As the New York Times noted in its editorial supporting the convention, "Delay is not only pointless; it could be harmful. The U.S. needs to join this effort not only to enhance the global environment but for its own good as well. Otherwise, American leadership in biotechnology and agriculture may be threatened as other countries deny the U.S. access to their genetic and biological resources."

Mr. President, most other countries have recognized the importance and benefits of the convention. Indeed, over 160 nations—including the entire European Union and Japan—have ratified the convention. Most of these countries will participate in the upcoming meeting of the convention as parties.

Because of Senate inaction, the United States will not. Because of Senate inaction, the United States—a world leader in the use of genetic resources in biotechnology, agriculture, and pharmaceutical—will attend the meeting as an observer.

To my mind, that is an untenable situation and one that I hope we can rectify. Under Senate rules, the convention will be rereferred to the Committee on Foreign Relations. I can assure supporters that I will make action on the convention one of my priorities for the coming Congress.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. LEAHY. Mr. President, as chairman of the Senate Committee on Agriculture, Nutrition and Forestry, I want to take a few minutes to express some of the perspectives of American agriculture on the Convention on Biological Diversity.

The importance of biological diversity to the American farmer has been recognized and utilized for centuries. More than 99 percent of the crops planted today in the United States either originated on foreign soil or have been improved by foreign genetic resources.

Likewise, the future of the American farmer depends on the continued use to genetic materials. Foreign germplasm helps farmers, ranchers and foresters develop plant and animal varieties that are not only more resistant to pests, disease and environmental stress but also more productive with increased yields and shorter growing times.

The Convention on Biological Diversity is designed to serve these interests through two goals. One goal is to ensure that foreign resources exist (conservation) and the other is to ensure that the United States can use them (access). The Convention is drafted with specific interests of our $67 billion agriculture industry in mind.

Not surprisingly, a number of agriculture groups recognized the importance of this treaty and wrote to my colleagues urging ratification. The American Corn Growers Association, Archer Daniels Midland, American Seed Trade Association, American Seed Research Foundation, National Association of Commercial Plant Breeders, American Soybean Association, National Association of Wheat Growers, the National Cooperative Business Association, and the United Fresh Fruit and Vegetable Association and some of the groups that expressed an interest in considering the treaty.

Nevertheless, it is clear that other issues have sidelined the interests of agriculture. One of the reasons the Senate is not considering this treaty in time for the first Conference of Parties in November is an acute fear that this treaty will impose environmental standards on the United States. While I understand the root of these concerns and want to find adequate responses to these concerns, some of the fears just went too far. I believe John Doggett of the Farm Bureau summed up the net result of the careless politicking on this issue: Unfortunately, what we've seen is that certain groups created a crisis where one doesn't exist.

I thank the agriculture groups that took an active interest in this issue to meet their own interests as well as the interests of the Nation. I look forward to working with my colleagues and the Administration to provide leadership where fear has overstepped reality and to bring resolution to the remaining concerns in the next Congress. I ask that a recent article from the Chicago Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Sept. 30, 1994]

ODD TRIO COULD KILL NATURE PACT

(By Jon Margolis)

It was negotiated by Republicans and signed by a Democrat.

Its language was non-binding and its subject matter—the beauty of nature, the web of life and the love of learning—hardly seemed controversial. Environmental groups and big corporations all thought it was great.

So even in today's contentious political setting, few expected much trouble for the Convention on Biological Diversity, more commonly known as the biodiversity treaty.

But that was before it ran into a bizarre political trio: the internal dynamics of the Republican Party, the anti-environmental "Wise Use" movement and political extremist Lyndon LaRouche.

Arising with unexpected fury, this opposition has stalled Senate ratification of the treaty and imperils it in the remaining days of the 103rd Congress.

Although there is little doubt the treaty would be approved if it got to the Senate floor, the opposition of some Republicans could keep it from getting there. Senate Minority Leader Bob Dole (R-Kan.) and 34 of his fellow Republicans have expressed "a number of concerns" about the treaty in a letter to Majority Leader George Mitchell (D-Maine).

According to government officials and others involved in the ratification effort, Republican doubts about the treaty grew because of opposition from mainstream agricultural organizations.

These organizations, including the American Farm Bureau Federation, had some substantive questions about elements of the treaty. But they were also being pressured from the rank and file, which had been bombarded with anti-treaty information—much of it demonstrably incorrect—from "wise use" groups, which get most of their money from mining, logging and other resource-using companies.

"Unfortunately, what we've seen is that certain groups tried to create a crisis where one doesn't exist," said John Doggett, the Farm Bureau's director of governmental relations. Doggett remains unhappy about

some elements of the treaty, but he said his organization is no longer opposing ratification.

But it was opposing the treaty early in August, which is when the serious opposition first came to the attention of the government officials responsible for the treaty. "I was surprised," said a State Department official. "It really had not shown up on my radar screen."

In an effort to discover the reasons for the opposition, government officials met with representatives of agriculture groups Aug. 5 at the Washington offices of the Farm Bureau.

According to two government officials, one participant held up and read part of an article that had been distributed by the American Sheep Industry Association.

The article claims that the treaty, which has been ratified by 78 nations, was written by "extremists" who believe that farming, jogging, fishing and mining violate the concept of "sustainable use" and who want to impose the "religious philosophy" of "biocentrism," defined as "the view that all species have equal rights." It also contends that the treaty establishes a "supranational body" that will override national sovereignty.

In fact, the treaty, which states that "states have sovereign rights over their own biological resources," was approved by negotiators appointed by President George Bush. Pressured by some in his own party, Bush did refuse to sign the treaty, but the U.S. scientists and diplomats who negotiated it have continued to support it. It was signed last year by President Clinton.

Although the article was not signed, Tom McDonnell of the sheep industry group confirmed that it was written by Rogelio (sometimes called Roger) Maduro. Maduro is an associate of LaRouche, the conspiracy theorist who was released in January from federal prison, where he was serving a sentence for fraud and conspiracy.

Maduro is associate editor of 21st Century, one of LaRouche's magazines, and he writes for another, Executive Intelligence Review. A version of his attack on the biodiversity treaty appears in the Sept. 2 edition of that journal.

McDonnell said that when he distributed the article, which he intended only for other members of his organization, he did not know that Maduro was associated with LaRouche. He also said the Sheep Industry Association is not taking any position on ratification of the treaty.

But he did defend the substance of Maduro's work. "What I have found is that his work very closely follows what is in the Global Biodiversity Assessment." According to McDonnell, the Global Biodversity Assessment is the UN document which is "the model for the treaty."

There is no such document, said a member of the staff of the UN Environmental Program. "We have a biodiversity treaty and a secretariate," she said.

The Global Biodiversity Assessment is a process, just beginning, in which scientists from all over the world will monitor the world's biological diversity.

Neither the Farm Bureau's Doggett nor the other participants in the Aug. 5 meeting said that Maduro's article was the only cause, or even the main cause, of opposition to the treaty. "It was non-trivial," said one participant, "but I'm not sure that it was pivotal. One of the guys from the cattlemen's association held it up to explain the kind of response they were getting from their people."

According to this participant, the Washington lobbyists knew that the article was irrational "but even if they didn't think these objections had any substance, how far ahead of their own constituents could they get."

One government scientist familiar with the situation said that farmers and ranchers, especially in the West, are a receptive audience for conspiracy theories.

"They're all bent out of shape about the Endangered Species Act, property rights and environmental regulations," he said. "Some of their objections to have legitimate roots, but it makes them receptive to these statements that are paranoid and irrational."

One of the objections of the treaty, for instance, is that it defines cattle and sheep as "alien species" in the natural ecosystem. This might seem credible because in academic zoology livestock are so defined. "But not in law," said the government scientist. "They are domesticated species," and are so labeled in Article 2 of the treaty.

Although some leaders of the "wise use" movement have been associated with Rev. Sun Myung Moon and other extremists, they have so far steered clear of LaRouche. But Maduro attended a meeting of the Wise Use Leadership Conference in July.

This could pose a problem for Republicans, such as Dole who have grown increasingly friendly toward "wise use" positions and leaders in the last few years. Although "wise use" organizations are considered to be politically powerful only in New Mexico, Wyoming and Utah, they have been quietly gaining strength in GOP circles as Republican leaders jockeying for the presidential nomination move to the right to get the approval of conservative political activists.

UNFUNDED FEDERAL MANDATES

Mr. SIMPSON. Mr. President, I first want to thank Senator DIRK KEMPTHORNE for his steadfast commitment to the issue of unfunded Federal mandates. His diligence on this has been most remarkable. I also want to thank the majority leader for allowing the Senate to move ahead with this most important piece of legislation.

Mr. President, the men and women who have devoted themselves to public service at the State and local level face a unique set of circumstances and responsibilities that some of us at the Federal level do not appear to understand.

As a former member of the Wyoming State Legislature, I have an intense appreciation for the work our fine State and local officials do. They are right there "on the front lines" dealing directly with their constituencies. That gives them a special insight which all of us in Washington should appreciate.

The issue of unfunded Federal mandates is not about pitting one ideology against another—rather, it is simply about the proper role of the Federal Government in our federalist system. Unfunded Federal mandates are costly requirements which Washington imposes on cities and States without paying for them.

This is the single most important issue facing our Nation's Governors and mayors. Unfunded Federal mandates are costing State and local governments hundreds of millions of dollars each year. That, in turn, diverts previous resources from more pressing local priorities—priorities that can only be determined at the local level because of the close proximity to constituents.

The issue is fundamental to the Federal relationship with the State and local governments. There was once a time when Federal, State, and local governments were partners in administering public policy. Each respected the other's sovereignty. Our system of federalism worked better than it does today. It was the model for the world to follow. In recent years, however, the Federal Government has become arrogant and paternalistic. Instead of viewing States and localities as partners, today they are mere units which officials in Washington can rely on to administer—and pay for—an ever expanding agenda.

Many Members of the U.S. Congress actually believe they know better how to spend local government money than the local governments can. The National Association of State Legislatures has shown us that Congress has passed 172 unfunded Federal mandates on State and local governments at an estimated cost of approximately $500 billion since 1964—12 percent of all city revenue is paid to support Federal programs! Similar percentages apply to counties and to the States.

As deficits skyrocketed over the past decade, Congress built into the Federal budget system spending constraints. Funds began to decrease, but unfortunately, the spending activities of Congress did not. Therefore, instead of controlling federal spending, Congress continued on with its spending addiction and simply found new financing outlets—outlets like unfunded Federal mandates. What a great deal: We at the Federal level decided that the new way to balance the budget was to simply leave the States stuck with the tab. While many at the Federal level were quite joyous about the new arrangement, the States and localities were not amused.

Today, State and local government officials are fed up to their ears with the Federal Government telling them what to do. They say that Federal mandates are inefficient, costly, and force communities to make senseless budget decisions.

It is important to acknowledge the fact that several bills have been introduced on this subject by Senators from both sides of the aisle: Senator KEMPTHORNE—a former mayor of Boise, ID; Senator JUDD GREGG—a former Governor of New Hampshire; Senator CAROL MOSELEY-BRAUN—a former Senator in the Illinois State Legislature. Our fine colleague, Senator HANK

BROWN, has even introduced an amendment to the U.S. Constitution prohibiting unfunded mandates.

These Senators know the impact of unfunded Federal Mandates on State and local governments. The remedial legislation is straightforward. It says: "No funding?—No mandate!" In other words, if the U.S. Congress doesn't pay for what it wants done, States and localities can't be forced to pay either.

The Kempthorne legislation is supported by a substantial majority of Members of the U.S. Senate. And finally, after nearly 2 years in the Senate after introduction of this bill, we may have a chance to enact this legislation before Congress adjourns. As it should be.

Mr. President, this is not a Republican or Democrat issue, this is an issue about making the Federal Government stick to its end of the bargain in our federalist system. The "real world" at State and local levels is about balancing budgets, providing services as efficiently as possible, being fiscally responsible, and making tough decisions among competing priorities. It is high time the Federal Government started living in the "real world" too.

HEALTH CARE REFORM

Mr. LAUTENBERG. Mr. President, I rise to express my deep disappointment that the Congress will not pass any health care reform legislation this year. While I have always favored legislation that would provide universal health coverage to Americans, I recognized that it would not be possible to enact this type of legislation once we recessed in August after passing the crime bill.

At that time, the Republicans made it clear that they would offer hundreds of amendments to Senator MITCHELL'S compromise bill with one thing in mind—killing health care reform. However, they did this under the guise that the Mitchell bill needed improvement. They argued that we did not need comprehensive health care reform but rather a scaled back, incremental approach.

After the Senate recessed in August, two groups of Senators went to work, in consultation with the majority leader, to put together just that—a scaled-back, incremental approach to health care reform. The first group, the so-called Mainstream Coalition put together a proposal that would basically make changes in insurance practices and provide subsidies to low-income people who were not eligible for Medicaid. Another group, led by Senator HARKIN, put together a proposal that would cover all children and implement insurance reforms similar to those in the "mainstream" plan.

At that time, the majority leader sought to debate one of these incremental bills and once again, he found himself up against a brick wall. A few Republicans promised to use whatever tools possible to kill health care reform, whether it was filibustering the bill or holding it hostage with an unlimited number of amendments.

Mr. President, it is clear that many Republicans did not want health care reform; they wanted a political issue. Unfortunately, the losers were the American people. Instead of getting a health care bill that eliminates preexisting condition exclusions, allows people to take their insurance from job to job, and provides subsidies for low-income individuals and small businesses, they got obstructionist politics.

The Republicans have played gridlock politics with the health care needs of the American people, and I think their behavior has been disgraceful.

Mr. President, I will continue to push for legislation that reforms our health care system by moving toward universal health care coverage and by controlling the soaring costs of health care.

In my State of New Jersey, there are almost 1 million persons without health insurance. We should not tolerate this for two reasons. First, health care is a basic right that every American deserves. Second, the people who have health insurance are currently paying for the cost of those without insurance because providers simply shift the costs of the uninsured to the insured. That means everyone comes out behind.

At the minimum, we need to pass legislation next year that will move us toward universal coverage, eliminate preexisting condition exclusions, provide portability, create voluntary pools for small businesses to join together to get discounts on health insurance, and provide subsidies to individuals.

I will continue to work for this type of health care reform in the next Congress. I hope that in 1995, the Republicans will be more interested in expanding health insurance to all Americans than they are in scoring short-term political points.

HEALTH CARE REFORM

Mr. DECONCINI. Mr. President, I rise today to express my profound disappointment that this Congress was unable to fully debate and vote on national health care reform. We began the 103d Congress with great hopes and anticipation for addressing the health care crisis through national reform. In the course of the past 2 years, we all learned a lot about the intricacies of health policy and the health care industry.

From the beginning, none of us expected this to be an easy process. We owe a lot to President Clinton and the First Lady for focusing the Nation on this critical issue. They gave us the first legislative proposal to address the problem on a comprehensive basis. They have taken a lot of criticism from all sides. But, without their willingness to provide the leadership, I am not sure we would have gotten as far as we did. I command them and express my appreciation for their commitment to improving our national health care system. They deserve more recognition for what they have done than some would like the American people to believe. I am glad that they are not discouraged and have vowed to continue their advocacy of this critical national issue.

I compliment the distinguished majority leader for his unflagging efforts to develop compromise legislation which would meet our various concerns. He did an outstanding job despite the difficult set of circumstances he had to work under. He put the needs of the American people first but regrettably his valiant efforts were unsuccessful.

I am glad during the Senate floor debate we were not deliberating the question of whether our health care system needed to be fixed. We agreed it needed to be fixed, although we parted ways on how best to accomplish that goal. However, to successfully reach a compromise, we needed to rise above differences caused by politics and policy disagreements.

The American people's health care needs must always be the single most important consideration. Their lives and well-being will be significantly affected by the eventual outcome of Congress' debate in the coming year. We have a tremendous responsibility to look to the future of our country and make sure we do what is in the best interest of our Nation and the well-being of our citizens.

I believe that those of us who are public servants all only want to do the right thing. As we struggle to understand and reconcile conflicting interests, we must always be mindful of the fact that the health care system affects one-seventh of our economy. At the same time, we cannot lose sight of the fact that any solution which increases the Federal deficit will damage our deficit reduction efforts and undermine the best intentions.

At no time during the past year did I expect to satisfy every side, but I did strive to address the issues important to my constituents in a constructive manner. After the hue and cry of the battle had faded into the past, I wanted to be able to say that the nearly 600,000 Arizonans who lack health insurance coverage this year would finally be able to get health care services due to enactment of health reform. I wanted to be able to say that the action of the U.S. Senate resulted in equal access to the standard health plan for Native American citizens. I wanted to tell Arizona's small businesses, the true backbone of our State's economy, who want

to provide health coverage to their employees that they could do so without sacrificing jobs or their own livelihoods—their businesses. I wanted to reassure citizens that we did not simply create more bureaucracy or more unfunded Federal mandates for State government.

Mr. President, these are the everyday concerns which people in my State raise when they talk about health care reform. National reform will mean very little to Arizona if critical local concerns are not addressed when we, as a nation, respond to the health care crisis. The same is true in Arkansas, in Alabama, in Albuquerque, and Atlanta. As we all know, national policy is only as good as it benefits local needs.

For example, in Arizona, the Native American communities never know from year to year whether the Indian Health Service will be able to meet their basic health care needs. The health delivery system set up by the U.S. Government to provide health care to Indian tribes must ration care. Today our Government provides less than $2 billion annually for IHS programs, leaving 40 percent of the current Indian health needs unfunded. Solemn commitments made by our Government to provide health care for Indian people in exchange for the millions and millions of acres of tribal lands they relinquished go unhonored every day.

Sadly, we have not had one single administration in the past decade increase funding for the Indian Health Service programs. On the contrary, all administrations since I have been in this body used the IHS budget as an easy target for funding cuts. Indian tribes must fight every fiscal year for the survival of their health care programs. The responsibility for protecting the Indian health programs has fallen on Congress.

No wonder Native Americans suffer epidemic levels of diabetes and other chronic diseases. Their valiant efforts to improve their health status have been frustrated by chronic funding shortages. As one tribal leader said, "Why are we always the first ones forced to make funding cuts and the last ones to be considered for allocation of new resources?"

Regrettably, this tribal leader must now wait until next year for an answer. I hope that my colleagues who return next year will ensure that the first Americans are guaranteed health security by national health care reform and that they are not left behind.

Mr. President, the statement that small businesses are the backbone of our economy is particularly true in Arizona. In Arizona, 87 percent of these businesses are small firms with 25 or less employees. These are the employers who make jobs available and provide the opportunities for Arizona citizens to be productive participants in the job market.

They pay the taxes which government relies on to administer its programs. Certainly they are the ones who make communities economically viable and the State and Nation competitive in the national and international marketplace. These small businesses open the door to economic independence for many entrepreneurial individuals. Innovative technology and other commercial product development would not flourish without the flexible environment offered by small businesses.

The survival of small business therefore must be safeguarded under health care reform. I have spoken with many small business owners throughout Arizona and I am convinced that their concerns about the impact of reform cannot be ignored. While many of them oppose the employer mandate, I have also heard small business owners express the desire to cover their workers but they are frustrated over the high costs of insurance coverage today.

I have found that most small business owners cannot absorb the costs of a 7- or 8-percent payroll premium tax. However, some small firm owners will concede that a 1- or 2-percent payroll cap on their premium costs would ease the extra burden for them. Others stand strong in their objection to any form of employer mandate and oppose even the use of a triggered mandate as a backstop measure. This is a point on which I respectfully had to disagree with the opponents of expanding the employment-based system of insurance coverage.

I believe that what is good for the 90 percent of the insured Arizonans who get their health coverage from large and small employers is also good for those who work for small employers and have no insurance. In Arizona, 488,000 of the State's uninsured are in working families. They represent 77 percent of all the Arizonans who are uninsured. They deserve the same opportunity to have access to health coverage as do families who are covered because someone in their household works for an employer who provides insurance coverage.

At the same time, I wanted to make sure that small business was not overwhelmed by insurance premium costs. That is why I conditioned my support for the employer mandate upon the inclusion of measures which mitigate the adverse economic impacts associated with mandated employer contributions.

I was glad the majority leader's bill proposed incentives to encourage all businesses to expand coverage to their workers. Only if this approach failed to achieve 95 percent coverage would the enactment of the employer mandate have been considered. Under the triggered mandate, however, I was concerned about requiring individuals to obtain insurance coverage and pay for the full costs of the premium. I believe most low-wage workers would find this financially onerous and may be forced to sacrifice other basic needs to meet their obligation. Unless this concern is addressed, individuals may lose more than they gain.

In closing, let me give you 562,000 reasons why I supported comprehensive reform of our health system. That is the number of citizens in the State of Arizona who do not get the basic medical care they need. In just 1 year this number increased by nearly 100,000. Another 44,000 lose their insurance coverage each month. They are being squeezed out of the health care system by health care costs which are consuming 14.3 percent of the Gross National Product. In my State, those who can pay are spending 13 percent of their family income on health care each year. Their average annual expenditure on a per family basis is in excess of $7,000.

I believe that unless we, as a Nation, commit ourselves to comprehensive health care reform, this erosion of our families' purchasing power will continue unabated. Doing nothing means our total national health care spending, as projected by CBO, will reach a trillion dollars next year. The heartbreaking stories we have been hearing from our constituents about their staggering medical bills will grow worse. The cost shifting will increase and threaten the ability of doctors, other providers, and hospitals to delivery quality health care.

Medicare funding will be threatened, as the Federal Government resorts to controlling its expenditures for publicly funded health programs as a bandaid response to rising costs. We all know that we cannot continue down this slippery slope.

There may be many aspects of the many comprehensive reform proposals which cause concern but I simply want to remind my colleagues that duty calls upon everyone to look out for the national interest first and foremost. For example, I was not comfortable, for example, with the number of boards, commissions and regulatory bodies which the Federal and State Governments would have been required to set up under the Mitchell bill. But I was determined to weigh this concern against the bill's intent to make the health care industry more competitive and efficient without hurting the quality of care.

This is a complicated problem which does not lend itself to easy solutions. The leader deserved credit for proposing a bill which attempted to balance all interests. I hope that all my colleagues, who have said that they do not intend to let the current health care crisis go unsolved next year, will make a sincere effort to find an acceptable compromise. Despite my disappointment, I have faith that this great body

will find the will and means to address this national problem in the coming Congress. I only regret that we were unable to do so this year.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SHIRLEY FELIX

Mr. MITCHELL. Mr. President, on behalf of all Members of the Senate, I want to wish Shirley Felix, the catering director in the Capitol, a speedy recovery. She was taken ill on Tuesday evening and remains in intensive care at George Washington University Hospital.

I believe I can speak for every Member of the Senate when I say that we have benefited from Shirley's long career of service and dedication and cheerful and professional way in which she performed her job often responding with little notice to many demands made upon her.

She is seriously ill, and we wish her a prompt and speedy recovery and hope that when the Senate next convenes that she will be back on the job with us.

Mr. President, I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

PARTISAN POLITICS

Mr. WOFFORD. Mr. President, most of my life, I have worked from the outside to prod Congress into taking action which I thought was good for our country, from passing civil rights legislation to creating the Peace Corps up to the National and Community Service Act of 1990.

Now I am completing my first full session in Congress. What I have seen from inside, this year, appalls and angers me. Never in my life have I witnessed the kind of petty partisanship and calculated obstructionism that has been practiced over this past year.

On some important fronts, we have achieved real results in this session: The crime bill, national service, family and medical leave, expanded college aid for the middle class, and the rest of the list so eloquently described by the majority leader, Senator MITCHELL, and by the Senator from Arkansas, Mr. BUMPERS.

In each of those cases, in almost every one of those cases, it has been because moderate Republicans have broken from the party line to join with Democrats in pragmatic, commonsense action that helps families and communities in Pennsylvania and around the country. Many of these Republican colleagues were working with us on a practical first step in health care reform.

In these last weeks, even before their leadership rejected consideration of even any such first step, and through this very week and this very day, we have been working to reach final agreement on a bipartisan interstate waste bill that I have been working for since I came to the Senate. The bill would finally have given Pennsylvania the legal authority to meet the onrushing pile of garbage coming from outside and put reasonable limits on out-of-State waste coming to fill our landfills, and it would have helped many, many other States begin to control their destiny in the matter of interstate waste. Yet, at the 11th hour, despite overwhelming bipartisan support, despite long, hard work over years by Senator COATS; the chairman of the Environment and Public Works Committee, Senator BAUCUS; by the senior Senator from Pennsylvania, Senator SPECTER; by Senator DURENBERGER, and others of us, the politics of "no" was just applied, right now, when I heard the Republican leader block the passage of this bill, so vital to Pennsylvania and to communities all over this Nation.

I waited to beyond the 11th hour, right to this last minute before midnight to say this. But what we have just seen on this interstate waste bill and on these other bills vital to the American people that have been killed in these last weeks is what makes American people hate politics. More and more in Congress, the kind of bipartisan spirit we need is being crushed by blind, selfish obstructionism, by a strategy based on a calculation as to what is best for the next elections, not what is best for the next generations.

Mr. President, the politics of obstruction, the politics of "no" is easy, but with all the challenges facing our country right now, our challenge is finding the ways to say "yes" to those actions which will make a difference in the lives of people. And I warn some of my colleagues whose electoral calculations have led to this year's politics of "no" that the letters GOP are coming to stand for gridlock over people. As the Republican leader, Senator DOLE, was reported to have said in explaining why he objected to Republicans working with Democrats to craft a good first step on health care reform in the last couple of months, "We've got a party to think of."

Mr. President, I suggest a different approach. I believe we have a country to think of. Listen to some of the recent headlines. "GOP taking joy in obstructionism." "Senate GOP tactics threaten lobbying, education environment bills." "Republicans kill lobbying bill in Senate." "Serial Senate filibuster looms." "Republicans seek political advantage with gridlock." That one was from the not so Democratic Washington Times.

As Pulitzer-Prize-winning columnist William Raspberry wrote in part yesterday, "The opposition these days isn't ideological or interesting. It's petty, partisan, and tiresomely predictable." No matter how much fun the game seems to those who play it, this poisoning of our politics threatens to do a good deal of harm to America.

I think, Mr. President, that most Americans are tired of the endless bickering in Washington. They know that it does harm our country and their own lives. We can and we must do better. We must wake up and see that this is not just a political game, that this is about people's lives.

Last week, as promised, I introduced a bill that might bring that point home to my colleagues. I posed a simple proposition, that Members of Congress should not take from the American people what they will not arrange for the American people. That bill would cut off taxpayer-financed health benefits that Members of Congress have arranged for themselves. I offered it as an amendment last week. No one spoke against it. But through procedural tricks, we were prevented from having a vote. At that time, the leader assured me that he intended to bring up the Congressional Compliance Act and that I would have an opportunity to introduce my amendment and have it considered then.

When the leader did try to bring up that Compliance Act, which I support and have cosponsored, there was a technical objection raised from the other side of the aisle that could not be overcome in these last hours. So Congress was denied the opportunity to take up a good bill, the compliance bill that enjoys wide bipartisan support and could have passed. Once again by that stratagem, this Congress avoided having to consider my amendment which, like the Compliance Act itself, would have put Congress in the same boat as the American people.

Then came the bill on unfunded Federal mandates. A Senator on the other side introduced an amendment that was a bill killer. That destroyed the opportunity to debate and pass a bipartisan bill to help our cities and States, and it ended the chance for introducing and debating other amendments, including mine.

Mr. President, I did not come to the Senate to take anyone's health insurance away. I came to help make health insurance more secure, more accessible, and more affordable for millions of Americans. I came here to provide to the American people the same kind of affordable private health insurance that Members of Congress have arranged for themselves and for millions

of Federal employees and their families.

As Senator GRASSLEY said yesterday, we cannot have laws that apply to mainstream and do not apply in the Nation's Capital. I agree.

Mr. President, Members can run with procedural tricks and technical dodges, but they cannot hide from the power of this idea. Let us look again at what Members of Congress have arranged for themselves:

A practical way—this is from the Federal Employees Benefits Plan—a practical way to help meet the costs of health care;

A choice of plans and options;

Up to 75 percent toward the cost of your premium, paid by the U.S. taxpayers;

Payroll deductions for your share of the premium;

Immediate coverage without a medical examination or restrictions because of your age or physical condition.

The other chart, Mr. President, is what Members of Congress—of this Congress—have guaranteed other working Americans. It is blank. There is nothing there.

When I was appointed to the Senate, in accepting the nomination, I held up the Federal Employees Benefits Plan and said this is the model of what we should extend to the American people: private health insurance choices, each year the employee having the choice and the employer paying a fair share.

That is fair, if that is the system that the American people are able to enjoy. But it is wrong for us to be enjoying that kind of a good health care plan when we have failed to take even the first substantial steps toward guaranteeing private health insurance for the American people.

Yesterday, I heard Senator GRAMM boast about the success in blocking reform that would have extended health insurance for other Americans. But Senators have made sure that they will keep that kind of health insurance for themselves.

Members of Congress played political games to stall job training and reemployment proposals at a time when incomes for many Americans have been stagnant. But incomes have not been stagnant for Members of Congress, whose annual salary has gone up about $30,000 since 1991. They tried, and thank God they failed, to block a tough, smart crime bill that is already helping put more police on the streets in this country.

Let us remember, Members of Congress have their own cops on the beat: The Capitol Police. And it is good that they are there, but it is even better that we have now taken action to increase community policing all over America.

Last year, they tried and failed to block a tax cut for millions of working Americans, but now they are back to selling a tax cut for the wealthiest Americans, like Members of Congress who make more than $130,000 a year. So Members of Congress will leave here tonight with their private health insurance secure, paid by the taxpayers but without taking action to extend the same kind of affordable private health insurance choices to the people who pay those taxes.

Mr. President, if Members of Congress had to live like the American people, then they would find it easier to come together to do the right thing for the American people. I am going to keep fighting for that idea. It is an idea whose time has come, because the politics of selfishness is wearing thin. People are seeing through it and they do not like it. They do not want Members of Congress to ask only what is good for my party or what is good for me. They want us to ask what is good for the country. They want us to demonstrate that this is not only about winning political games, but it is about improving people's lives. They want us to recapture the spirit of the common good, to work together again; Democrats and Republicans, to solve our problems and move this country forward, to rediscover, as the first great Republican put it, the better angels of our nature.

I yield the floor, Mr. President, and suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, NOVEMBER 30, 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Wednesday, November 30; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate proceed to the consideration of the House companion to S. 2467, the GATT implementing legislation.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

RECESS UNTIL WEDNESDAY, NOVEMBER 30, 1994, AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as provided for under the conditions of House Concurrent Resolution 315.

There being no objection, the Senate, at 5:11 p.m., recessed until November 30, 1994, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 8, 1994:

RESOLUTION TRUST CORPORATION

ROBERT C. LARSON, OF MICHIGAN, TO BE A MEMBER OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD FOR A TERM OF 3 YEARS.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

TO BE LIEUTENANT GENERAL

LT. GEN. BUSTER C. GLOSSON xxx-xx-xx...

SMALL BUSINESS ADMINISTRATION

PHILIP LADER, OF SOUTH CAROLINA, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

GARY NILES KIMBLE, OF MONTANA, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

RAILROAD RETIREMENT BOARD

MARTIN JAY DICKMAN, OF ILLIINOIS TO BE INSPECTOR GENERAL, RAILROAD RETIREMENT BOARD.

DEPARTMENT OF THE INTERIOR

RHEA LYDIA GRAHAM, OF NEW MEXICO, TO BE DIRECTOR OF THE U.S. BUREAU OF MINES.

FEDERAL TRADE COMMISSION

CHRISTINE A. VARNEY, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF 7 YEARS FROM SEPTEMBER 26, 1989.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

TO BE BRIGADIER GENERAL

COL. CLAUDE M. BOLTON, JR. xxx-xx-xx...

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

TO BE LIEUTENANT GENERAL

LT. GEN. EDWARD P. BARRY, JR. xxx-xx-xx...

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

TO BE LIEUTENANT GENERAL

LT. GEN. SAMUEL E. EBBESEN xxx-xx-xx...